# Sections of the City of Center Point Code of Ordinances

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CHAPTER 1
CODE OF ORDINANCES

1.01 Title. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Center Point, Iowa, 2014.

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 Center Point, Iowa.
3. “Clerk” means the city clerk of Center Point, 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).
6. “Council” means the city council of Center Point, Iowa.
7. “County” means Linn 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means the ordinances of the City of Center Point, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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.


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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine and a term of imprisonment provided for a misdemeanor violation under Iowa Code Section 903.1, subsection 1, paragraph “a”.

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

CHARTER

2.01 Title

This chapter may be cited as the charter of the City of Center Point, 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 two years.

(Code of Iowa, Sec. 376.2)

2.06 Copies on File

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

(Code of Iowa, Sec. 372.1)

† EDITOR’S NOTE: Ordinance No. 136 adopting a charter for the City was passed and approved by the Council on July 18, 1973, and published in the Linn News Letter, Central City, Iowa, on July 26, 1973, and posted in three places in the City as required by law. Terms of Council Members were extended to four years pursuant to an election held September 11, 1979, and the terms of Council Members were returned to two years and the Mayor’s term was extended to four years pursuant to an election held November 14, 1985. Pursuant to an election held November 5, 1991, terms of Council Members were changed to staggered four-year terms, and the term of the Mayor was changed to two years.
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. Each day’s continuance of such violation shall constitute a separate offense and is punishable by a like fine or penalty.

2. Special Civil Penalties.
   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than $1,000.00 for each day a violation exists or continues.
   B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than $1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
      (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
      (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
      (3) The violation does not continue in existence for more than eight (8) hours.

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

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

   1. The name and address of the defendant.
   2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.

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

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

6. The time and place of court appearance.


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])
CHAPTER 5

OPERATING PROCEDURES

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

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 Center Point as now or hereafter required by law.”

   (Code of Iowa, Sec. 63.10)

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

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

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

5.02 BONDS. Surety bonds are provided in accordance with the following:
1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)
2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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.

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

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.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

5.12 LOBBYING BY CITY OFFICIALS AND EMPLOYEES. No statement, written or oral, by any official or employee of the City or any of its departments, commissions or boards shall represent the official position of the City or of the official’s or employee’s agency unless:

1. The Council has given prior approval to the official position by resolution, and
2. The resolution approving the official position names the official or employee as an agent of the City to lobby the Iowa General Assembly, a State agency or the Office of the Governor.

Any and all views expressed by an official or employee of the City or any of its boards, departments or commissions which have not previously been approved by the Council as set forth in this section are the personal views of the official or employee and not the official position of the City or such board, department or commission. No such official or employee need obtain prior approval of the City to express any personal opinion or view to any member of the General Assembly, a State agency or any State-wide elected official. If any such official or employee desires that the Council consider the adoption of said official’s or employee’s opinion or viewpoint on any issue as an official position of the City, such City official or employee shall request in writing that the Council consider adopting said viewpoint or position as the official position of the City in conformance with this section. Any and all compensation paid to any City official or employee is for services other than encouraging the passage, defeat or modification of legislation or regulation or for influencing the decision of the members of the General Assembly, a State agency or any State-wide elected official.
CHAPTER 6

CITY ELECTIONS

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

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

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

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

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

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

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

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

7.04  **FUND CONTROL.** There shall be established and maintained separate and distinct funds in accordance with the following:
1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.

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

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

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

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

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

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

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

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

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

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

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

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

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:
1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

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

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)
1. **Program Increase.** Any increase in the amount appropriated to a program must be prepared, adopted and subject to protest in the same manner as the original budget.

   \[(IAC, 545-2.2 \{384, 388\})\]

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

   \[(IAC, 545-2.3 \{384, 388\})\]

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

   \[(IAC, 545-2.4 \{384, 388\})\]

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

   \[(IAC, 545-2.4 \{384, 388\})\]

### 7.07 ACCOUNTING.

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

1. **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 the City Administrator and by the Mayor or Mayor Pro Tem, following Council approval, except as provided by subsection 5 hereof. In the City Administrator’s absence, the check shall be signed by The Mayor or Mayor Pro Tem and the City Clerk or Deputy City Clerk.

4. **Budget Accounts.** There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

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

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

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

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

(Code of Iowa, Sec. 384.22)
CHAPTER 8

URBAN RENEWAL

<table>
<thead>
<tr>
<th>ORDINANCE NO.</th>
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<th>NAME OF AREA</th>
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<tr>
<td>261</td>
<td>December 14, 1989</td>
<td>Center Point Urban Renewal Area</td>
</tr>
<tr>
<td>296</td>
<td>December 14, 1993</td>
<td>1993 Addition to Center Point Urban Renewal Area</td>
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EDITOR’S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.
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CHAPTER 15

MAYOR

15.01 TERM OF OFFICE. The Mayor is elected for a term of two years.

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.
6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.

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

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

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Library Board of Trustees, with Council approval
3. Parks and Recreation Commission, with Council approval
4. Other appointments as necessary, with Council approval

15.04 COMPENSATION. The salary payable to the Mayor of the City of Center Point, Iowa, shall be the sum of $3,000.00 per annum, payable in quarterly installments and an additional $20 will be given for extra meetings attended other than regularly scheduled Council meetings, special City Council meetings, and work sessions that occur on days when a Council meeting isn't scheduled. This will become effective January 1, 2016.

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

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

(Code of Iowa, Sec. 372.4)
CHAPTER 16
MAYOR PRO TEM

16.01  VICE PRESIDENT OF COUNCIL. The Mayor Pro Tem is vice president of the Council.

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

16.02  POWERS AND DUTIES. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to 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. The Mayor Pro Tem shall be paid in addition to their regular meeting pay, $50.00 per meeting (regular and special) when he or she is required to preside at a meeting in the absence of the Mayor. In addition, the Mayor Pro Tem shall be paid a pro rata portion of the Mayor's quarterly compensation, in lieu of the Mayor, for serving in an absence of the Mayor in excess of fifteen days' duration.

(Code of Iowa, Sec. 372.13[8])
CHAPTER 17

COUNCIL

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 adopted by resolution of the Council.

(Code of Iowa, Sec. 26.10)

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])

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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.

(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 meet in regular session on such days and times as the Council shall fix by resolution. Said meetings may by motion be rescheduled to different dates when the Council determines it necessary or convenient.

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

(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.

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


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

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

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

1. City Administrator
2. City Clerk
3. City Attorney

17.06 COMPENSATION. The City Council compensation will be $50 for each City Council meeting (regular and special) and work session attended that occurs on a day when there is not a Council meeting. An additional $20 will be given for extra meetings attended, such as committee meetings and meetings where the City is being represented. This will become effective January 1, 2016.

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

18.14 Roll Call Votes

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve for an indefinite term. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

Center Point Public Library
Center Point Post Office
Center Point Council Chambers

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

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

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.

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:
1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

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

18.14 ROLL CALL VOTES. For each vote of the city council, the City Clerk shall take a roll call vote of each Councilmember during a city council meeting. The Clerk shall start with a new Councilmember for each vote.
CHAPTER 19

CITY 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.


10. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.
19.04  **BOARDS AND COMMISSIONS.** The City Treasurer is the Treasurer of the Library Board of Trustees and pays out all money under control of such Board on orders signed by the Chairperson of such Board, but receives no additional compensation for such services.
CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation

The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.

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 Council.

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

20.03 Power of Attorney

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

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

20.04 Ordinance Preparation

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

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

20.05 Review and Comment

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

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

20.06 Provide Legal Opinion

The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Clerk, as directed by the Council.
20.07 **ATTENDANCE AT COUNCIL MEETINGS.** Attend every regular meeting of the City Council and attend those special meetings of the City Council at which he/she is required to be present. Attorney shall, upon request of the Council, Mayor or City Administrator, provide any legal guidance to run council meetings.

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.

20.09 **PROPER FILES.** Keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defended by the City Attorney accompanied by all proceedings relating to said actions.

20.10 **DEFENSE OF CITY EMPLOYEES.** He/She shall not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. He/She shall, however, if directed by the Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his/her office or employment.

20.11 **WRITTEN REPORTS.** Make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any city officer, and ordinances submitted to him/her or coming under his/her notice.

20.12 **ACTIONS OF ATTORNEY.** The decisions and actions of the City Attorney shall be based on the direction of a majority vote of the Council.
21.01 APPOINTMENT AND COMPENSATION. The Council may appoint by majority vote a City Administrator to hold office at the discretion of the Council. The City Administrator shall receive such salary as established by resolution of the Council. The City Administrator shall be a city manager as contemplated in Section 372.4 of the Code of Iowa.

21.02 DUTIES. If appointed, the duties of the City Administrator are as follows:

1. Enforcement Officer. The City Administrator shall see that the laws and ordinances of the City are faithfully enforced and executed.

2. Council Meetings. The City Administrator shall, unless excused, attend all meetings of the City Council.

3. Recommendations. The City Administrator shall recommend to the City Council such measures as the City Administrator may deem necessary or expedient for the good government and welfare of the City.

4. Supervision. The City Administrator shall have the general supervision and direction of the administration of the City government. The City Administrator shall act as the personnel manager for the City and shall have the power to:
   A. Temporarily suspend, with or without pay, any employee of the City
   B. Hire and discharge employees in accordance with Council approved policies regarding pay, employment and removal of such employees.

5. Contracts and Purchasing. The City Administrator shall 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.

6. Public Improvements and Buildings. The City Administrator shall supervise and manage all public improvements, works and undertakings of the City, and all public buildings. The City Administrator shall have charge of their construction, improvements, repair and maintenance. Nothing herein shall be construed to prevent cooperation between the City Administrator and any commission, board of trustees or other body.
7. **Public Improvements and Maintenance.** The City Administrator shall have charge of the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for public works or public improvements, the cleaning, sprinkling and lighting of streets, alleys and public places; the collection and disposal of waste, and the preservation of tools, equipment, vehicles and appliances belonging to the City.

8. **Budget.** The City Administrator shall prepare and submit to the City Council the annual budget.

9. **Nuisances.** Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

22.03  QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of 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 Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

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

4. Quorum and Voting. All actions of the Board require a majority vote of the whole number of members appointed to the Board, except the removal of a Library Director requires a two-thirds (2/3) vote, as stated in Section 22.05(5) of this chapter.

22.05  POWERS AND DUTIES. The Board shall have and exercise the following powers and duties:
1. **Officers.** To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

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

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

4. **Hiring of Personnel.** To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation.

5. **Removal of Personnel.** To remove the Library Director, 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 Library Director 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 operations by the Council, to include fines, rentals, service fees, County and State allocations and sharing fees. Trust funds shall be expended only after approval of a Board resolution and a Council resolution. Trust funds shall be invested by the City Treasurer only after direction and written notice from 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. **Record of Proceedings.** To keep a record of all proceedings and to make and send to the Mayor and Council, on or before January 15 of each year, an estimate of the amount of funds necessary for the improvement, operation and maintenance of the Library for the coming fiscal year, the amounts expended for like purposes for the
preceding year and the amount of income expected for the fiscal year from sources other than taxation.

12. 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 in the budget by the Council for the operation and maintenance of the Library shall be set aside on separate line items on the City chart of accounts. Expenditures shall be made only on approval by the Board except interim claims for payroll and necessary expenses which shall be approved at the next meeting of the Board.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)
CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission

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

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 Term of Office

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

(Code of Iowa, Sec. 392.1)

23.03 Vacancies

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

(Code of Iowa, Sec. 392.1)

23.04 Compensation

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

(Code of Iowa, Sec. 392.1)

23.05 Powers and Duties

The Commission shall have and exercise the following powers and duties:

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

   (Code of Iowa, Sec. 392.1)

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

   (Code of Iowa, Sec. 392.1)

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

   (Code of Iowa, Sec. 414.6)
4. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or resubdivisions 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.
CHAPTER 24

ZONING BOARD OF ADJUSTMENT

24.01 CREATION AND MEMBERSHIP. A Board of Adjustment is hereby established which shall consist of five members. As used in this chapter, the word “Board” shall be construed to mean the Board of Adjustment. The terms of office of the members of the Board of Adjustment and the manner of their appointment shall be pursuant to the provisions of Section 414.8 of the Code of Iowa.

24.02 PROCEDURE. The Board may adopt additional rules for its own government in accordance with this chapter, providing such rules are not inconsistent with this chapter. The meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

24.03 QUORUM. At any meeting of the Board the presence of three or more members shall constitute a quorum for the transaction of business.

24.04 VOTE REQUIRED. The concurring vote of a majority of the members of the Board that are present shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or any other administrative official, or to decide in favor of any applicant on any matter on which it is required to pass under this chapter, or to effect any variations in the Zoning Ordinance. The grounds for every such determination shall be stated.

24.05 ASSISTANCE; OTHER DEPARTMENTS. The Board may call upon the several City departments for assistance in the performance of its duties, and it is the duty of such departments to render such assistance to the Board as may reasonably be required.

24.06 APPEALS, HEARINGS AND STAYS OF PROCEEDINGS. Appeals, hearings and stays of proceedings may be accomplished in the following manner:

1. Appeals. An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the
Zoning Officer. Such appeal shall be taken within ten days of the receipt of the written
decision of the Zoning Officer, by filing with the Zoning Officer from whom the appeal
is taken and with the Board a notice of appeal specifying the grounds thereof. The
Zoning Officer shall forthwith transmit to the Board all papers constituting the record
upon which the action appealed from was taken.

2. Hearings. The Board shall fix a reasonable time for the hearing on the appeal
and give public notice thereof by publication at least fifteen days prior to the date set
for hearing in a newspaper of general circulation in the City.

3. Appeal from Decision of the Board. Any person aggrieved by any decision of
the Board or any taxpayer or any officer, department, board or bureau of the City may
present to the District Court a petition, duly verified, setting forth that such decision
is erroneous, in whole or in part, specifying the grounds of the error. Such petition
shall be presented to the court within ten days after the filing of the decision in the
office of the Board.

4. Decisions of the Board. The Board shall decide all applications and appeals
within 30 days after the final hearing thereon. A certified copy of the Board’s decision
shall be transmitted to the applicant or appellant, and to the Zoning Officer. Such
decision shall be binding upon the Zoning Officer and observed by the Zoning Officer,
who shall incorporate the terms and conditions of the same in the permit to the
applicant or appellant, whenever a permit is authorized by the Board. A decision of
the Board shall not become final until the expiration of ten days after the date such
decision is made, unless the Board finds that waiver of said ten-day period is necessary
for the preservation of the property or personal rights and so certifies on the record.

5. Stay of Proceedings. An appeal stays all proceedings in furtherance of the
action appealed from, unless the Zoning Officer certifies to the Board, after notice of
appeal is filed with the Zoning Officer, that by reason of the facts stated in the
certificate, a stay would, in the opinion of the Zoning Officer, cause imminent peril to
life or property. In such case, proceedings shall not be stayed otherwise than by a
restraining order which may be granted by the Board or by the District Court on
application, on notice to the Zoning Officer from whom the appeal is taken, and on
due cause shown.

24.07 POWERS OF THE BOARD. The Board has the following powers:

1. Special Exceptions and Interpretation of Zoning Ordinance and Map. The
Board has the power to hear and decide, in accordance with the provisions of this
chapter, applications filed with the City Clerk for special exceptions or for
interpretation of the Zoning Ordinance or maps, or for decision upon other special
questions upon which the Board is authorized to pass by this chapter. In considering
an application for a special exception or interpretation of the Zoning Ordinance or
maps, the Board shall give due regard to the nature and condition of all adjacent uses
and structures; and in authorizing a conditional use or special exception, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation – in addition to those expressly stipulated in the Zoning Ordinance for the particular special exception – as the Board may deem necessary for the protection of adjacent properties and the public interest, health, safety and general welfare. The jurisdiction of the Board to hear and determine such applications for special exceptions or for interpretation of the Zoning Ordinance or maps shall be original and no application to or appeal from the decision of the Zoning Officer shall be a prerequisite to such jurisdiction.

2. Other Special Exceptions. In addition to permitting the special exceptions herein specified, the Board has the power to permit the following special exceptions:

A. Nonconforming Uses; Substitutions. The substitution of a nonconforming use existing at the time of enactment of this chapter for another nonconforming use, if no structural alterations, except those required by law or resolution, are made; provided, however, in a Residence District, no change shall be authorized by the Board to any use which is not a principal permitted use in any Residence District, and in a Business District, no change shall be authorized to any use which is not a permitted principal use in any Business District.

B. Temporary Structures and Uses. The Board may authorize the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in the Zoning Ordinance for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A zoning clearance permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a twelve-month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

C. Interpretation of Zoning Map. Where the street or lot layout actually on the ground or as recorded differs from the street and lot lines as shown on the zoning maps, the Board, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purposes of the Zoning Ordinance. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the zoning maps may be made to the Board and a determination shall be made by said Board.

D. Interpretation of Zoning Ordinance. If there is uncertainty as to the meaning and intent of a textual provision of the Zoning Ordinance, the City Clerk, the Zoning Officer or the Chairperson of the Planning and Zoning Commission may request the Board to interpret the same, and the Board shall make a determination within 30 days.
E. Administrative Review and Variances. The Board has the power to hear and decide appeals, filed as herein provided, where it is alleged that there is an error in any order, requirement, decision, determination, grant or refusal made by the Zoning Officer or other administrative official in the enforcement and interpretation of the provisions of the Zoning Ordinance.

F. Variances Where Literal Enforcement Would Create Undue Hardship. The Board has the power to authorize upon appeal specific variances from the terms, provisions or requirements of the Zoning Ordinance as will not be contrary to the public interest; provided, however, such variances shall be granted only in such cases where owning to special and unusual conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of the Zoning Ordinance will result in practical difficulty or unnecessary hardship, so that the spirit of the Zoning Ordinance shall be upheld, public safety and welfare secured and substantial justice done.

G. Variances; Conditions Prevailing. Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition, or of the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of the Zoning Ordinance would involve practical difficulty or would cause unnecessary hardship – unnecessary to carry out the spirit and purpose of the Zoning Ordinance – the Board has the power to authorize a variance from the terms of said Zoning Ordinance, so as to relieve such hardship. In authorizing a variance, the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence and guarantee or bond as it may deem to be necessary, to enforce compliance with the conditions attached.

3. Variances; Finding of the Board. No variance of the provisions or requirements of the Zoning Ordinance shall be authorized by the Board unless the Board finds, by clear and convincing evidence, that all of the following facts and conditions exist:

A. Exceptional Circumstances. There are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.

B. Preservation of Property Rights. Such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
C. Absence of Detriment. The authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of the Zoning Ordinance or the public interest.

D. Not of General Nature. The conditions or situation of the specific piece of property or the intended use of said property for which a variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

4. Variances; Board May Reverse Orders. In exercising its power, the Board, in conformity with the provisions of statutes and of this chapter, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal is taken.

5. Prior to granting any request for special exception, interpretation of the zoning ordinance and map or variance, the applicant for any such action must provide credible evidence to the Board that notice of such request was delivered to all property owners of record immediately adjacent to and bordering on the subject property.

24.08 COUNCIL REVIEW OF VARIANCES. The Council may provide for its review of variances by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for 30 days from the date of remand.
CHAPTER 25
PARKS AND RECREATION COMMISSION

25.01 Commission Created

There is hereby established a Community A Parks and Recreation Commission is hereby created to control all parks and pleasure grounds of the City and to control parks and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs for the leisure time of the City's residents.

25.02 Commission Organized

The Park and Recreation Commission shall consist of seven (7) members plus one non-voting youth member. Members shall be selected by the Mayor and approved by a majority vote of the City Council for a term of two (2) years. One (1) member of the seven (7) member commission may live outside the Center Point city corporate limits. One (1) of the seven (7) member commission will be an Urbana resident. A vacancy in the office of the Park and Recreation Commission shall be filled by the Mayor with a majority vote of the City Council. There shall be one youth member appointed by the Mayor with a majority vote of the City Council. The youth member shall be a student chosen to represent community youth. The youth member shall not have voting privileges and shall serve a one year term beginning January 1st of each year.

25.03 Powers and Duties

In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Commission shall make recommendations to the City Council over the properties, subject to the limitation of expenditures for supplies, contracts and capital outlays set forth in the annual budget provided by the City Council for parks and recreation operations. The commission shall also have the following specific powers and duties, to-wit:

1. Elect officers. To meet annually in January and elect from its members a Chairperson, a Vice-Chairperson, and a Secretary.

2. Development. To recommend development and extension of parks and recreational facilities to the Council, and accomplish the same as specific municipal budget allocations permit.

3. Nonresident use. To authorize the use of parks and recreational facilities by nonresidents of the City and to fix charges for this privilege as well as fixing charges, if any, for use by residents of the City.

4. Expenditure of funds. To control, subject to municipal budget allocation and Council approval, the expenditure of all portions of the municipal funds allocated for parks.
and recreational purposes by the Council and of all money available by gifts or otherwise, not including specific Council allocations or grants for the erection or construction of specific parks and recreational facilities, and of all other funds belonging to the Commission, including charges made and collected for the use of park and recreational facilities.

5. Policy and Public Relations. To perform its legal responsibilities, to be responsible for sound programming and policies, to maintain good public relations and to keep record of its proceedings.

25.04 MONTHLY AND ANNUAL REPORTS. The Commission shall make a written report to the Council during the budget process each year as to the operation of the Parks and Recreation Department, including therein an account of the expenses of the Commission for the preceding year. In addition, the Commission shall make a monthly report to the Council on the day to day operation of the Parks and Recreation Department.

25.05 ACTIVITIES, RULES AND REGULATIONS. Subject to the approval of the Council, the Commission shall have the authority to determine the recreation character of the activities of the Parks and Recreation Department. The Commission, at the request of the Council, shall suggest rules and regulations to be adopted by the Council for the government and operation of the Parks and Recreation Department improvements. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

25.06 RECOMMENDATIONS TO THE COUNCIL. The Commission shall make recommendations to the Council regarding the development of the park facilities and the recreational activities of the community. The Commission shall establish the rules and regulations which shall govern the operation and management of the parks and recreational activities. Such rules and regulations may thereafter be modified and changed from time to time by the Council.

25.06 BUDGET. To make and submit to the Clerk on or before the first day of January in each year an estimate, in specific budget form, of amounts necessary for the improvements, operation and maintenance of the parks and recreational facilities for the coming fiscal year, the amounts expended for like purposes for the two preceding years and the amount of income expected for the next fiscal year from sources other than taxation.

25.08 EMPLOYEES. The City Administrator shall be the immediate supervisor of Parks and Recreation Department employees and have disciplinary authority over them with consultation of the City Council. All employees are subject to the City’s personnel policies and procedures.
CHAPTER 26

BUILDING INSPECTION DEPARTMENT

26.01 Department Created. There is created a department of municipal administration to be known as the Building Inspection Department, referred to in this chapter as “the Department.” The Department shall be administered by a Building Inspector.

26.02 Duties of the Department. The Department shall have the following powers and duties:

1. Performance of plan reviews and all inspections necessary under the Center Point building, mechanical, plumbing, electrical, dangerous and abandoned building code and other related codes or ordinances and such other inspections as may be assigned by the City Administrator.

2. Provision of technical assistance to various boards and commissions as assigned by the City Administrator.

3. Perform such other and further duties as may be assigned by the City Administrator or City Council.

26.03 Construction Code Review Board.

1. Organization. A Construction Code Review Board is hereby established, which shall consist of 5 members. The word “Board” when used in this section shall mean the Construction Code Review Board. Membership of the Board shall consist of the entire Planning and Zoning Commission.

   A. Vacancies shall be filled by the Mayor and confirmed by the Council for any unexpired term.

   B. The Board shall elect a Chairperson and shall adopt rules of procedure in accordance with the provisions of this section and the Code of Iowa.

   C. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine.

2. Purpose and Intent. The purpose and intent of this Board is to:

   A. Promote public safety and general welfare through the recognition of a coordinated set of construction codes.
B. Provide a centralized point of construction code communications for all interested groups and individuals.

C. Promote harmony and consistency in construction code adoption.

3. Powers. The Board shall have the following powers:

A. To make recommendations to the City Council such new legislation for adoption of construction codes as is consistent with the findings of the Board.

B. To hear testimony, conduct studies and review documentation necessary for the determination of the Board.
CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, 28E.30)
CHAPTER 35
FIRE DEPARTMENT

35.01 Establishment and Purpose. A Fire Department is hereby established to prevent and extinguish fires, 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 within the City.

(Code of Iowa, Sec. 364.16)

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

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

35.03 Department Appointments.

1. Fire Chief. A fire chief shall be elected by the volunteer members of the Fire Department bi-annually, said election taking place on the 1st Wednesday of December every other year beginning in 2016, subject to approval of the City Council.

2. Volunteer Firefighters. All volunteer firefighters shall be appointed by the Fire Chief.

35.04 Fire Chief Duties.

1. Command. Command all operations of the Fire Department and be responsible for the care, maintenance and use of all vehicles and equipment of the Fire Department. In the absence of the Fire Chief, the next ranking officer or senior firefighter on duty shall exercise all of the duties and responsibilities of the Fire Chief.

2. Rules. Have the power, in the exercise of duties, to prescribe, promulgate and enforce rules and regulations for the governance of the members and employees of the Fire Department, which shall, however, not be inconsistent with this Code of Ordinances or the laws of the State; and provide every firefighter of the Fire Department with a copy of these rules and regulations. (The rules and regulations shall be filed with the Clerk for distribution to the Council which shall have the authority to disapprove the rules and regulations in whole or part.)
3. Control of Department. Be responsible for maintaining the efficiency, discipline, training 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.)

4. Records of Department. Be responsible for keeping and maintaining records of the Fire Department personnel, operating costs and efficiency of each element of fire-fighting equipment, depreciation and all equipment and apparatus, the number of responses to alarms and their cause and location, and an analysis of losses by value, type and location of buildings.

5. Reports. Make monthly written reports to the Mayor, City Administrator and Council concerning the general status, efficiency of the Fire Department, number of alarms answered during the month, and additional information as may be requested by the Mayor, City Administrator and Council; compile for the year a factual annual report based upon the records maintained by the Fire Department and summarizing the activities of the Fire Department. This annual report shall also contain recommendations for the improvement of the Fire Department.


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

8. 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)

9. 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)

10. 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)

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

(Code of Iowa, Sec. 100.2 & 100.3)

12. 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)

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

(Code of Iowa, Sec. 100.13)

14. 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)

35.05 CALLS OUTSIDE CITY LIMITS. The Fire Department may answer calls to fires and other emergencies within Linn County or adjacent counties but outside the corporate limits of the City. The Fire Department shall answer calls within Washington Township pursuant to the 28E Agreement with the City.

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

35.06 WORKER’S COMPENSATION AND LIABILITY INSURANCE. The Council shall contract to insure the City against liability for worker’s compensation coverage for volunteers injured in the performance of their duties as firefighters. All volunteers shall be covered by the contract.

35.07 LIABILITY INSURANCE. The Council shall contract to insure against liability of the City or members of the Fire Department, including volunteers, for injuries, death or property damage arising out of and resulting from the performance of departmental duties. However, the City will not insure or be responsible for actions of a volunteer going to or from the scene of a fire or other required or official activity in a private motor vehicle. This exception does not apply where a volunteer goes to or from the scene of a fire or other official departmental activity or function in a governmentally owned Fire Department vehicle.

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

(Code of Iowa, Sec. 100.41)

35.09 FEES FOR SERVICES. The Fire Department shall charge such fees for services rendered as are approved by resolution of the City Council for response to: structure fires; field or open
space fires; vehicle fires; LNG or LPG gas leaks; victim extraction; confined space or trench rescue; and for the clean-up of hazardous materials. Whenever the responsible party is a minor, the payment of said fees shall be the responsibility of the minor’s parents or guardian.
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CHAPTER 40

PUBLIC PEACE

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 Harassment. No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:
A. Communicates with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.4 [3])
4. Disrupt Lawful Assembly. Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

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

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

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

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

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.

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

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

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

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

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

B. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 LOITERING. It is unlawful for any persons to congregate, stand, loaf or loiter upon any public property so as to obstruct the same or hinder, prevent or annoy any person passing or attempting or desiring to pass thereon, or to congregate, stand, loaf or loiter in or in front of any public building so as to obstruct the same or hinder, prevent or annoy persons walking along, into or out of the same or attempting or desiring to do so, or by making remarks, gestures, noises, signs and the like to disturb, annoy or insult any person being upon or passing along any sidewalk, street, bridge, alley or crossing or along, into or out of the hall, lobby, doorway, passage or entrance to any public building, store, shop, tavern, office or other like building.

40.07 DISORDERLY HOUSES.

1. As used in this section “disorderly house” means and includes any building, house, structure, enclosure or place where riotous, noisy or disorderly conduct or loud or unusual noises or loud profane or vulgar language or drunkenness, quarrelling or fighting is engaged in or permitted; or to which persons resort to for the purpose of prostitution, lewdness or vagrancy.

2. No person shall keep, maintain, operate or be concerned in keeping, maintaining or operating within the City, any illegal gambling place, disorderly house, house of prostitution, place where illegal controlled substances are kept, used, sold or given away, or place where intoxicating liquors or beer are illegally kept, sold, served or given away; and no person shall frequent any such place or be employed therein.
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CHAPTER 41
PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances

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

(Code of Iowa, Sec. 727.1)

41.02 False Reports to or Communications with Public Safety Entities

No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

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

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

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

41.03 Refusing to Assist Officer

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

(Code of Iowa, Sec. 719.2)
41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer’s or employee’s duty.

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

41.08 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.

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

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

**41.11 FIREWORKS.** The sale, use or exploding of fireworks within the City are subject to the following:

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

   *(Code of Iowa, Sec. 727.2)*

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

   - **A.** Personal Injury: .......................... $250,000 per person
   - **B.** Property Damage: ........................ $50,000
   - **C.** Total Exposure: ............................ $1,000,000

   *(Code of Iowa, Sec. 727.2)*

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

   *(Code of Iowa, Sec. 727.2)*

**41.12 DRUG PARAPHERNALIA.**

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

B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

C. Test the strength, effectiveness or purity of a controlled substance.

D. Enhance the effect of a controlled substance.

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

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

(Code of Iowa, Sec. 124.414)

41.13 FIREARM / WEAPON FREE ZONES.

1. Buildings owned, leased or occupied by the City of Center Point, Iowa and municipal buildings, the surrounding grounds, and all municipal parks are declared to be firearm / weapon free zones. Except as hereinafter provided, it shall be unlawful for any person to carry or display any weapon or firearm within any municipal building, the surrounding grounds or within any municipal park. Persons on active duty as a peace officer, private security officer, member of the Armed Forces of the United States or the National Guard, a person in the service of the United States, or Correctional Officer serving in an institution under authority of the Iowa Department of Corrections are exempt from this provision while on active duty.

2. For use in this Chapter, the following terms are defined:

A. Municipal Building. Municipal building shall mean any structure, dwelling, garage or shelter owned, leased or otherwise occupied by the City of Center Point, Iowa and used for any municipal or public purposes by the City. The term “municipal building” does not include a building, structure or shelter wherein the city has established a firing range for use by the public.

B. Municipal Park. Municipal park shall mean any open ground or the buildings and facilities contained thereon owned, leased or otherwise occupied by the City of Center Point, Iowa used for any municipal or public purposes by the City.

C. Weapon. Weapon shall mean and include all weapons as defined or described in Sections 724.1 and 724.4 of the Code of Iowa, as amended.

D. Firearm. Firearm shall mean any device or instrument designed to propel, or used in the propulsion of any bullet, shot, pellet, slug, BB, dart, or other projectile by the action of an explosive, or by mechanical or electrical means, within or connected to the device or instrument. The term includes pistols, revolvers, derringers, handguns, pellet guns,
rifles, shotguns, muskets or any other devices which can expel or may be readily converted to expel any form of projectile so as to strike an object or person.
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)
CHAPTER 43

NOISE AND NOISE LIMITS

43.01 Definitions
43.02 Noise Disturbance Prohibited
43.03 Prohibited Sounds
43.04 Measurement of Noise and Sound
43.05 Permits to Exceed Limits
43.06 Other Laws and Ordinances
43.07 Penalty

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

1. “Application” means the application submitted to the city requesting a noise permit.

2. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.

3. “Emergency Work” means any work performed for the purpose of alleviating or resolving an emergency.

4. “Farm equipment” means the implements used in an operation or activity, or everything except personnel needed for cultivation or production of crops of any nature, or raising of any type of animal embraced within the term livestock.

5. “Motor Vehicle” “Motor vehicle” means every vehicle which is self-propelled. (Note: includes recreational vehicles such as snowmobiles, minibikes, stock cars, all-terrain vehicles and motorboats).

6. “Noise disturbance” for purposes of this chapter, means any transmission of sound across a real property boundary from a source specifically limited by this chapter.

7. “Official Vehicles” means governmental, police department and fire department equipment, public utility company equipment, railroad company equipment and emergency vehicles such as ambulances and helicopters.

8. “Person” Unless used in such a manner to denote only a human being, any firm, partnership, domestic or foreign corporation, association, joint stock company, trust or other association of entity, city, county or state government and subdivisions or agencies thereof, and the federal government and subdivisions and agencies thereof.

9. “Powered Model Vehicle” means any self-propelled airborne, waterborne or land borne model plane, vessel or vehicle which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.
10. “Public Right of Way” means the traveled portion of any street or alley or similar place which is owned or controlled by the city or other governmental entity.

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

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

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

14. “Sound Equipment” means any radio, record player, tape deck or compact disc player, loudspeaker, amplifier, soundtrack or other device for producing, reproducing or amplifying sound; except, however, “sound equipment” does not include sirens and other equipment used to alert persons to the existence of any emergency; equipment used by law enforcement and other public safety officials in the performance of their official duties; church carillons, bells or chimes; mobile radio or telephone signaling devices; or automobile and truck radios or players of recorded music such as compact discs or tapes or other such standard equipment used and intended for the use and enjoyment of the occupants of the vehicle, provided that the sound emitted from the vehicle does not exceed seventy-five (75) dB(a) when measured at a distance of twenty-five feet (25’).

15. “Sound level meter” means an instrument used to measure sound pressure.

43.02 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make, continue, cause or allow any noise disturbance within the city limits.
43.03 PROHIBITED SOUNDS.

1. “Noise disturbance” means any of the following sounds:

   a. Alarm Testing. The sound emitted by the intentional sounding outdoors of any privately owned fire alarm, burglar alarm, siren, whistle, or similar stationary emergency signaling device for the essential testing of such device, when conducted between the hours of five o’clock (5:00) p.m. and eight o’clock (8:00) a.m.

   b. Motor Vehicle Radios. The sound emitted by a radio, tape deck, electronic player, compact disc player, or other such equipment used and intended for the use and enjoyment of such vehicle’s occupants or riders while such vehicle is on the public right of way, when the sound emitted from the vehicle exceeds eighty (80) dB(A) when measured at a distance of twenty-five feet (25’).

   c. Chain Saws. The sound emitted by motor powered tree trimming equipment operated between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

   d. Construction Noise. The sound made by privately owned and operated tools or equipment in erection, demolition, excavation, drilling, or other such construction work which is received between the houses of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

   e. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying, or testing a motor vehicle which is received between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m. at the real property boundary of residential property.

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

   g. Lawn and Garden Equipment. The sound emitted by motor powered lawn and garden equipment operated between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

   h. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing, or handling of boxes, crates, containers, building materials, trash cans, containers, receptacles, or dumpsters which are received at the real property boundary of residential property between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.
i. Musical Instruments. The sound made by a drum, horn, reed or string instrument, or other musical instrument or device which is received at the real property boundary of residential property between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

j. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system is defective or has been modified by the installation of a muffler cutout or bypass.

k. Off Road Motor Vehicle Noise. The sound made on private or city owned property other than a public right of way and received at the real property boundary of residential property between the house of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

l. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received at the real property boundary of residential property between the hours of ten o’clock (10:00) p.m. and seven o’clock (7:00) a.m.

m. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right of way during any racing event or time trial, whether organized or unorganized.

n. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle.

o. Sound Equipment. The sound made by sound equipment operated upon the public right of way, in any building or upon any public or private premises shall be classified as a noise disturbance if either of the following applies:

i. the sound is in excess of the maximum permitted levels shown in the chart below when measured at the property boundary, or anywhere within the property, of a receiving land use, or if in a park, approximately two hundred feet (200’) from the source of the sound or, when a complaint is received, at the nearest boundary of the property where the complaining party was disturbed; or

ii. the sound is of a nature that cannot accurately be measured by a sound level meter, and such sound is disturbing to a reasonable human being of normal sensitivities.

MAXIMUM PERMITTED LEVELS
<table>
<thead>
<tr>
<th>Receiving Land Use</th>
<th>Maximum dB Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>65 between 7:00 a.m. and 10:00 p.m. 55 between 10:00 p.m. and 7:00 a.m.</td>
</tr>
<tr>
<td>Commercial</td>
<td>70</td>
</tr>
<tr>
<td>Industrial</td>
<td>75</td>
</tr>
<tr>
<td>Park</td>
<td>65</td>
</tr>
</tbody>
</table>

p. Wind Energy Systems. The sound made by wind energy systems shall be classified as a noise disturbance if either of the following apply:

i. the sound is in excess of fifty-five (55) dB when measured at the property boundary at the nearest boundary of the property where the complaining party was disturbed or anywhere within the property of a receiving use; or

ii. the sound is of a nature that cannot accurately be measured by a sound level meter, and such sound is disturbing to a reasonable human being of normal sensibilities.

2. The following sounds are specifically exempted from this chapter:

a. Official Vehicles. Governmental, Police Department and Fire Department equipment, public utility company equipment, railroad company equipment and emergency vehicles such as ambulances and helicopters are exempt from the provisions of this chapter.

b. Persons operating the following equipment are exempt from the provisions of this chapter: farm equipment, snow blowers and snow plows.

c. Portland Cement Concrete Joint Sawing Equipment. A contractor performing duties in connection with an approved subdivision plan or a City of Center Point public improvement project may perform necessary joint sawing of pavement upon approval of the City Engineer, Public Works Director or City Administrator and shall be exempt from this chapter.

d. Noise Permit. Sound in excess of the maximum permitted levels shall not be a noise disturbance if such sound is emitted in accordance with a noise permit issued by the city.

43.04 MEASUREMENT OF NOISE AND SOUND.

The measurement of sound or noise shall be made with a sound level meter and A-weighting network, such as a, b, or c as specified in American National Standards Institute.
Specifications for Sound Level Meters, ANSI S1.4-1971. If the frequency weighting employed is not indicated, the A-weighting shall apply.

A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone shall be positioned so as not to create an unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required.

43.05 PERMITS TO EXCEED LIMITS. The Council, on written application, for good cause shown, may grant a special permit to exceed the sound and/or time limits established in Section 43.04 for specific activities generally or for limited times and/or dates provided that the sound level does not exceed 75 dBA at the receiving land use. The Council shall adopted a procedure for such application, including permit fee and terms and conditions of the issuance of such permit, by resolution.

43.06 OTHER LAWS AND ORDINANCES. No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the city or state or federal statutes.

[The next page is 225]
CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

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

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

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

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

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

45.02 Public Consumption or Intoxication.

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

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

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

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

D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license, at municipal owned parks during open hours as per park regulations, or as otherwise allowed by express permission of the City Council. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

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

(Code of Iowa, Sec. 123.46)

45.03 Open containers in motor vehicles. (See Section 62.07 of this Code of Ordinances.)
CHAPTER 46

MINORS

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

1. Definitions. For use in this section, the following terms are defined:
   
   A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

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

   C. “Minor” means any unemancipated person under the age of eighteen (18) years.

   D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 midnight and 5:00 a.m. on Saturday and Sunday.

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 of work;

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

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

   (4) School activity or, if traveling, within one hour after the end 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 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 eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

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

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

(Code of Iowa, Sec. 709A.1)
CHAPTER 47
PARK REGULATIONS

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

(Code of Iowa, Sec. 364.12)

47.02 Scope. The rules and regulations contained in this chapter apply to all areas designated as public parks which are located within the City.

47.03 Prohibited Destructive Acts. No person shall disturb or interfere with any improvements made in or about the parks or disturb or interfere with birds, animals, fish, flowers or plants kept or found therein without the prior approval of the Council. No person shall construct or operate for private or commercial purposes any structure within the parks, nor shall any person remove any birds, animals, fish, flowers, plant life, trees, buildings, wood or other natural material from the parks without prior approval of the Council.

47.04 Use of Drives. No person shall drive any car, cycle or other vehicle in any portion of the parks except upon the established drives or roadways therein or such other places as may be officially designated by the City.

47.05 Parking. All vehicles shall be parked in designated parking areas only.

47.06 Fires. No fire 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.
47.07 HUNTING AND USE OF FIREARMS. Hunting and use of firearms are prohibited within the boundaries of the parks. Also, fireworks, explosives, and weapons of all kinds are prohibited in the park without prior approval of the Council.

47.08 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.

47.09 ANIMALS ON LEASH. No privately owned animal shall be allowed to run at large. All privately owned animals shall either be on a leash or chain not exceeding six feet in length and held by a person capable of restraining and controlling said animal or properly secured so that the animal is not capable of running at large. It is also permissible for a privately owned animal to be kept in confinement in a vehicle so long as the animal is incapable of running at large.

47.10 PARK HOURS. All city parks will be opened in the spring and closed in the fall on dates to be determined by the Council. During the season, all city parks will be open for public use between the hours of 5:30 am and 10:30 pm only, seven days a week. All persons are to vacate the park promptly at 10:30 pm.

47.11 RECREATION USES ONLY. It is unlawful for any person to occupy any portion of any area of the parks for washing or repairing vehicles, advertising or political campaigning, hawking, peddling or any other commercial activity except concessionaires acting under the authority of a lease or contract with the City Council.

47.12 USE OF HORSES RESTRICTED. It is unlawful to ride, lead or otherwise allow the entry of horses or horse-drawn wagons on the road or any area of the parks.

47.13 ATVs AND SNOWMOBILES. It is unlawful to operate any snowmobile, tote bike, air sled, swamp buggy, all-terrain vehicle or any land conveyance propelled by a gasoline or electrical engine and run on tracks or runners in or on any area of the parks.

47.14 RESERVING PARK FACILITIES. Rules for reserving city park facilities are set by Council resolution. Unless prior reservations are documented, all facilities in all parks shall be open for public use on a first come, first served basis.

47.15 DOMESTIC REFUSE NOT PERMITTED. It is unlawful to transport garbage, refuse or litter from any household, business or other place to any area of the park for the purpose of disposing of the same in any refuse container provided in the parks.

47.16 UNATTENDED MOTOR VEHICLES. It is unlawful to leave any motor vehicle unattended in the park areas for more than twenty-four (24) hours without permission of the Council or of such person authorized by the Council to grant such permission. Any motor vehicle left in violation hereof shall be removed and stored at the owner’s expense, which expense shall not be less than $25.00. If a motor vehicle is not reclaimed within six (6) months of its removal hereunder, it shall be considered abandoned and shall thereafter be disposed of by the City.
47.17 **POSESSION AND CONSUMPTION OF BEER, WINE OR LIQUOR.** It is unlawful for any person to possess or consume beer, wine or other liquor between the hours of 10:30 p.m. and 5:30 a.m. in or on any area of the parks. Any beer, wine or liquor possessed in violation of this rule shall be confiscated by those persons authorized to enforce this chapter. Also, no person shall bring, use, consume or have in his or her possession, in a public park, a glass bottle of beer, wine or liquor. Also, no person shall bring, use, consume or have in his or her possession, in a public park, beer in a keg or any other container larger than one quart, except (1) beer permit holders and suppliers or vendors authorized by the City, or (2) groups holding special events who have been granted a permit by the City Council to have beer for the use of said group in a container or containers larger than one quart. The City Council may establish a permit fee by resolution. The request for the special permit (and payment of the permit fee) must be present while the beer is dispensed and shall be responsible to determine that no beer is dispensed to or consumed by any person under the legal age contrary to law.

47.18 **CONDUCT.** No person shall use any loud, violent, obscene, or profane language while in the parks, or conduct himself or herself in a disorderly or obscene manner, or commit any nuisance upon the grounds.

47.19 **FASTENING MATERIALS TO TREES.** No person shall fasten any sign, box, wire, rope or other material to any tree or shrub in or on any area of the parks.

47.20 **ENFORCEMENT OF RULES AND REGULATIONS.** The provisions of this chapter may be enforced by any law enforcement official authorized to enforce the law within the City and by any other person designated by the Council to enforcement provisions of this chapter.

47.21 **ADDITIONAL REGULATIONS.** The Council may make such additional regulations by resolution as it may deem necessary and after such regulations have been posted in appropriate places notifying the public thereof, no person shall violate the instructions of such signs.

*(Code of Iowa, Sec. 364.12)*
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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance

50.02 Nuisances Enumerated

50.03 Other Conditions

50.04 Nuisances Prohibited

50.05 Nuisance Abatement

50.06 Notice to Abate: Contents

50.07 Method of Service

50.08 Request for Hearing

50.09 Abatement in Emergency

50.10 Abatement by City

50.11 Collection of Costs

50.12 Installment Payment of Cost of Abatement

50.13 Failure to Abate

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

2. Filth or Noisome Substance. Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a
railroad or street railway track as to render dangerous the use thereof. *(See also Section 62.08)*

7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. *(See also Chapter 51)*

8. **Air Pollution.** Emission of dense smoke, noxious fumes or fly ash.

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

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

11. **Trees or Debris in Floodway.** All trees, whether dead or alive and including fallen trees and any other deposits or debris which are in or near the floodway of any stream and which may dislodge during a flood.

12. **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.

13. **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. **Weeds, Vines and Brush** *(See Chapter 52)*
3. **Storage and Disposal of Solid Waste** *(See Chapter 105)*
4. **Dangerous Buildings** *(See Chapter 145)*
5. **Water Well Protection** *(See Chapter 147)*
6. **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 in the form of an ordinance or sent by certified mail to the property owner.

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

50.08 **REQUEST FOR HEARING.** Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively

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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.
presumed that a nuisance exists and it must be abated as ordered. The hearing will be before
the Council at a time and place fixed by the Council. The findings of the Council shall be
conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable
time under the circumstances.

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

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

50.10 ABATEMENT BY CITY. If the person notified to abate a nuisance or condition neglects
or fails to abate as directed, the City may perform the required action to abate, keeping an
accurate account of the expense incurred. The itemized expense account shall be filed with
the Clerk who shall pay such expenses on behalf of the City.

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

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred
by certified mail to the property owner who has failed to abide by the notice to abate, and if
the amount shown by the statement has not been paid within one month, the Clerk shall
certify the costs to the County Treasurer and such costs shall then be collected with, and in the
same manner, as general property taxes.

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

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

(Code of Iowa, Sec. 364.13)

50.13 FAILURE TO ABATE. Any person causing or maintaining a nuisance who shall fail or
refuse to abate or remove the same within the reasonable time required and specified in the
notice to abate is in violation of this Code of Ordinances.
CHAPTER 51

INOPERABLE VEHICLES AND JUNK

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

   1. “Inoperable/obsolete vehicle” means any automobile, truck, trailer, motorcycle, tractor, buggy, wagon or any combination thereof, or part thereof, or any other vehicle or device in, upon or by which a person or property is or may be transported or drawn upon a highway or street which exhibits any one or more of the following characteristics:

      A. That has a broken windshield or any other broken glass.

      B. That has a broken, loose or missing fender, door, bumper, hood, wheel, steering wheel, trunk top or tailpipe.

      C. That is lacking an engine or two (2) or more wheels or other structural part which renders said vehicle to be inoperable.

      D. That is a habitat for rats, mice or snakes or any other vermin or insects.

      E. That, because of its defective or obsolete condition, constitutes a threat to public health and safety.

      F. That is not capable of moving in both forward and reverse gears.

      G. That is not licensed for the current year as required by law, except new vehicles held for retail sale. If a motor vehicle is placed in storage with the County Treasurer it will nevertheless be an inoperable/obsolete vehicle if any of the characteristics set forth in paragraphs A through F are exhibited or if the stored vehicle is not covered by a form fitting tarp or other covering specifically designed for said use.

   2. “Junk or salvage materials” means any discarded or salvaged building materials or fixture; any obsolete or inoperable machinery or equipment or parts thereof; scrap iron or other metal; or solid waste as defined by Section 455B.301(20) of the Code of Iowa. Neatly stacked firewood located on a side yard or a rear yard shall not be considered junk or salvage material.

51.02 Public Nuisance Defined; Enumerated
   The following shall be deemed a public nuisance within the meaning of Section 657.1 of the Code of Iowa and for the purpose of this chapter. Public nuisances shall include, but not be limited to the following:

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1. **Accumulation of Junk or Salvage Materials.** Causing or allowing any junk or salvage materials to be collected or to remain on any private property within the City.

2. **Inoperable/Obsolete Vehicle.** The storing, parking, leaving or permitting the storage, parking or leaving of an inoperable/obsolete vehicle upon private property within the City for a period in excess of forty-eight (48) hours unless excepted herein.

3. **When applying the provisions of subsection 2 to a commercially zoned automobile repair business,** the time that an inoperable/obsolete vehicle is allowed to remain on private property shall be 30 days. An automatic 30-day extension will be given upon receipt, at the office of the Clerk, of a written request from the owner or operator of the automobile repair business certifying that repairs have been delayed due to non-receipt of ordered parts and that repairs will be promptly undertaken upon receipt of parts. If repairs on a vehicle are not completed within the above allowed time, the vehicle must be removed from the premises and stored in a properly zoned junk yard or placed inside an enclosed building or garage.

51.03 **PUBLIC NUISANCE PROHIBITED.** The creation or maintenance of a public nuisance is unlawful and prohibited. This section does not apply to legitimate business operating in a lawful place and manner. If a violation of this section occurs upon private property, the owner or person in control of said property shall be *prima facie* liable for said violation.

51.04 **ENFORCEMENT.** Upon discovery of any inoperable/obsolete vehicle or junk or salvage material upon private property within the City in violation of Section 51.03, the owners of said property shall be served by ordinary mail with an order to abate or cited with a municipal infraction under Chapter 3 of this Code of Ordinances. If an owner fails to abate the violation within the time allowed in the order the owner shall be cited with a municipal infraction under Chapter 3 of this Code of Ordinances.

51.05 **DISPOSAL.** Inoperable/obsolete vehicles which have been impounded may be sold in accordance with Chapter 321.89 of the Code of Iowa.

51.06 **INTERFERENCE WITH ENFORCEMENT/DISPOSAL.** Any person who interferes in any way with the enforcement provision of this chapter shall be deemed guilty of a simple misdemeanor and punished accordingly.
CHAPTER 52

WEEDS, VINES AND BRUSH

52.01 Purpose. The purpose of this chapter is to provide for the removal of weeds, vines, brush or other growth constituting a health, fire or safety hazard within the City, to define the same as nuisances and to provide for their abatement in order to provide for the safety and preserve the health and welfare of the citizens of the City.

52.02 Rules for Removal. All weeds, vines, brush or other growth which constitute a health, safety or fire hazard shall be cut or destroyed by the property owners when and as needed (as determined by the Council or its authorized representative, if the property owner fails to do so), but in any event at least once by May 1 of each year and thereafter by no later than the first day of each succeeding month through and including October 1 of each year.

52.03 Definitions. For the purposes of this chapter, the following items, phrases, words, and their derivations have the meanings given herein.

1. “Noxious weeds” means primary and secondary classes of weeds as defined by the Code of Iowa, and all additions to this list as so declared by the State Secretary of Agriculture.

2. “Parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and curb line; on unpaved streets, the parking is that part of the street, avenue, or highway lying between the lot lines and that portion of the street usually traveled by vehicular traffic.

3. “Right-of-way” means the entire width of a platted street or alley in use or undeveloped.

4. “Public Official” means the person designated by the Mayor or City Administrator to enforce this chapter.

5. “Weeds” means any plants growing uncultivated and out of context with the surrounding plant life when such plant has a seed head formed or forming and with a height of eight (8) inches or more, except as otherwise provided in this chapter.
52.04 **AUTHORITY FOR ENFORCEMENT.** The Mayor or City Administrator or any person designated by the Mayor or City Administrator is responsible for the enforcement of this chapter and shall have all the necessary authority to carry out the enforcement of this chapter.

52.05 **INTERFERENCE WITH PUBLIC OFFICIAL.** No persons shall interfere with the Mayor, City Administrator or designee or any appointed assistant while engaged in the enforcement of this chapter.

52.06 **NUISANCES.** Except as provided elsewhere in this chapter, the following provisions shall apply:

1. Each owner and each person in the possession or control of any land shall cut or otherwise destroy, in whatever manner prescribed by the Public Official, all noxious weeds, weeds, vines, brush or other growth constituting a health, fire or safety hazard thereon and shall keep said lands free of such growth.

2. Each owner and each person in possession or control of any property shall be responsible to keep said lot, including along with parking adjacent thereto, alleys, public ways or areas up to the centerline of said ways free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than eight inches in height. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than 18 inches in height.

3. Each owner and each person in the possession or control of any lands shall not allow any plant growth of any sort to remain in such a manner as to render the streets, alleys or public ways adjoining said land unsafe for public travel or in any manner so as to impede pedestrian or vehicular traffic upon any public place or way.

4. Where waterways or watercourses are found upon any developed or undeveloped lot, the owner or person in possession or control shall keep the flat or level part of the bank of said waterway free of any weeds and grasses more than 18 inches in height. Should such waterways or watercourses be found within the right-of-way of a street or alley, the adjacent property owner or person in possession or control shall be responsible to keep the flat or accessible portion of creek bank free of any weeds or grasses more than 18 inches in height.

5. No owner or person in possession or control of any developed or undeveloped lot shall allow plant growth or the accumulation of plant materials on such lot to remain in such a state so as to constitute a fire hazard. In no instance shall cut plant material accumulations be located within 150 feet of a building, structure, recreation area (not including the width of any intervening street) or within 125 feet of a street right-of-way.

52.07 **ENFORCEMENT.** The Mayor, City Administrator or designee may inspect all areas alleged to be in violation and in the case of a founded violation notify the last known owner or
person in possession (or control) of the area of violation of this chapter. Said notice shall be by certified mail and allow seventy-two hours (72) after mailing said notice as a period of time to eliminate said violations. Return receipt with signature is not required for said notice. The Mayor, City Administrator or designee shall charge an administrative fee in the amount of twenty-five dollars ($25.00) for each founded violation. Upon failure of the owner or person in possession or control to act within the prescribed 72 hour time period, the City may perform the required action and assess costs against the property for collection in the same manner as a property tax. In the event such action is taken, the Mayor, City Administrator or designee may obtain competitive quotes to have the required action performed. If no quotes are obtained, the City may have the City personnel perform the required action at rates which shall be established by resolution of the Council from time to time, which rates shall constitute costs to be assessed against the property as provided herein. In addition to the foregoing remedy and other remedies by law, the Mayor, City Administrator or designee may file misdemeanor charges against such individuals or municipal infractions.

52.08 EMERGENCY CONTROL MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Mayor, City Administrator or designee an emergency exists creating a health, safety or fire hazard which may require weed or grass control without prior notice, control measures shall be taken and costs assessed against the property for collection in the same manner as property tax. However, prior to such assessment, the City shall give the property owner notice by certified mail and an opportunity for a hearing before the Council.

52.09 CONTROL OF WEEDS OR OTHER VEGETATION. The Clerk shall annually on or before May 1 through August 1 of each year publish a Notice to Property Owners generally setting forth the duty to control weeds and other vegetation which might be a nuisance in violation of this Code of Ordinances. The Mayor, City Administrator or designee may cause a Notice to Abate Nuisance to be served upon any property owner who fails to comply with the published notice or any person who at any other time has weeds or other vegetation in violation of this Code of Ordinances and shall submit the cost to the Council for assessment as provided in Section 364.12 of the Code of Iowa. In the event of an emergency as set forth in Section 364.12, the notice requirement may be dispensed with. In abating a nuisance under this Code of Ordinances, the Mayor, City Administrator or designee are hereby authorized and directed to employ such persons and rent any and all equipment necessary for the abatement of the nuisance and the costs thereof shall be assessed.

52.10 HABITUAL VIOLATORS. If the owner or person in control of any land has previously received a notice to abate nuisance relating to weeds within the preceding 24 months, then the notice to abate nuisance may include notice that such owner or person in control of said property will be considered to be an habitual violator of this chapter and that if the nuisance is not abated within the allowed time, the City will consider the property to be subject to having a contract let by the City for mowing property as needed up to a weekly basis for the next following 24-month period of time and that the full cost of said contract together with an administrative fee of two hundred fifty dollars ($250.00) will be assessed against the property.
CHAPTER 55
ANIMAL PROTECTION AND CONTROL

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

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

2. “Animal” means a nonhuman vertebrate.

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

3. “Animal shelter” means any premises designated by the Council for the proper care of impounded animals.

4. “At large” means off the premises of the animal’s owner, unless:
   A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of a competent person, or
   B. The animal is within a motor vehicle, or
   C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or police vehicle.

5. “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.

6. “Cat” means any member of any breed of the domesticated feline species, male or female, neutered or unneutered.

7. “City Veterinarian” means a person licensed to practice veterinarian medicine, surgery and dentistry in the State, designated by the City from time to time as the City Veterinarian/Animal Control Officer.

8. “Dog” means any member of the canine species, male or female, neutered or unneutered.

9. “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.

10. “Fowl” means any bird that is domesticated and kept for any purpose.

11. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.

12. “In heat” means a female animal during the active state of estrus.

13. “Kennel” or “Kenneling” means any place where four or more dogs whose ages are six months or older are kept for any purpose.

14. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

   (Code of Iowa, Sec. 717.1)

15. “Owner” means any person owning, keeping or harboring an animal.

   (Code of Iowa, Sec. 351.2)

16. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

17. “Pet shop” means any business established for the purpose of breeding, buying, selling or boarding of animals.
18. “Veterinary hospital” means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseased and injured animals.

19. “Vicious animal” means any animal which inflicts a bite or bites upon and/or attacks a human being or domesticated animal without cause or justification and may or may not be a dangerous animal; or any animal which has a known propensity, tendency or disposition to attack human beings or domestic animals without provocation, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury to or to otherwise endanger their safety; or any other animal that manifests a disposition to snap or bite.

20. “Walker” means any person having control over or attempting to have control over a dog when it is off the premises of its owner.

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 ANIMALS RUNNING AT LARGE. It is unlawful for any owner to allow dogs, cats, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the City. Animals off the premises of the owner shall not be considered to be “at large” if they are on a leash, cord, chain or similar restraint not more than six feet in length and under the control of the owner, within a motor vehicle or housed within a veterinary hospital, licensed kennel, pet shop or police vehicle.
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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

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

(Code of Iowa, Sec. 351.33)

55.10 UNHEALTHFUL OR UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.

2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal’s discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

3. All feces removed, as aforesaid, shall be placed in an airtight container until it is removed pursuant to refuse collection procedures, or otherwise disposed of in a sanitary manner.

4. An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner’s soil in any manner that prevents odor or collection of vermin.

55.11 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the owner’s. Said animal shall be considered at large.

55.12 REMOVING ANIMALS FROM ANIMAL SHELTER. It is unlawful for any unauthorized person to open any gate, door or any other portion of the animal shelter provided by the City Veterinarian with the intent of allowing the animals to escape. The City Veterinarian and employees of the City Veterinarian shall be considered to be authorized persons under this chapter.
55.13 ANIMALS IN PARKS. No animal shall be allowed in any area of a City park unless it is attached to a leash no more than six (6) feet in length and having sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal.

55.14 CONFINEMENT OF FEMALE ANIMALS IN HEAT. The owner of any female animal in heat shall confine said animal inside the house or building on the owner’s premises during the heat period. The owner may remove a dog in heat from his or her premises for purposes of breeding and/or exercise provided the animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and is under the control of the owner.

55.15 DANGEROUS DOMESTIC ANIMALS. Dangerous domestic animals within the City limits shall be muzzled at all times.

55.16 VICIOUS ANIMALS.

1. No person shall own, keep or harbor a vicious animal within the City.

2. It is the duty of the animal control officer to impound any vicious animal. In the event the animal cannot be caught by the animal control officer without exposing the officer to danger or personal injury, the animal may be destroyed.


A. The animal control officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined in this chapter, may declare such animal a vicious animal by delivering a written notice of declaration to the owner. The notice shall include a description of the animal and the basis for the declaration of viciousness. The notice shall also set forth that the owner shall be required to remove the animal from the City limits as required by this section. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service.

B. The order to remove a vicious animal from the City issued by the animal control officer may be appealed to the Council by the person owning, keeping, sheltering, or harboring the animal in question or by his or her designee. In order to appeal such order, written notice of appeal must be filed with the Clerk within three business days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the animal control officer. 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 20 days of the receipt of notice or appeal. The hearing may be continued for good cause. Failure to file a request for hearing shall constitute a waiver of any right to contest the declaration of the animal control officer, and the animal control officer shall be authorized to seize and impound the animal. An animal so
seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the owner has not taken possession of the animal with the intent to remove the animal from the City, the animal control officer shall cause the animal to be destroyed.

C. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours’ written notice of the time and place of the hearing. The notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that, if the determination of the animal control officer is upheld, the owner shall be required to remove the animal from the City limits as required by this section. The notice shall be served in the same manner as the declaration notice.

D. After such hearing the Council may affirm, reverse or modify the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

E. If the Council affirms the action of the animal control officer, the Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such vicious animal shall remove the animal from the City. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice set out in paragraph A of this subsection. If the original order of the animal control officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the animal control officer or the Council was issued has not petitioned the County District Court for a review of the order or has not complied with the order, the animal control officer shall cause the animal to be destroyed in a humane manner.

F. Failure to comply with an order of the animal control officer issued pursuant to this section and not appealed or of the Council after appeal is a misdemeanor.

G. Any animal that is alleged to be vicious and that is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, all costs shall be paid by the City, except costs attributable to initial
confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

55.17 ANIMAL SHELTER AND CITY VETERINARIAN. Any public veterinarian office or pound may be designated by the City to be the animal shelter and any licensed veterinarian may be designated as the City Veterinarian (animal control officer). The City Veterinarian shall have the same powers as a peace officer for the enforcement of provisions of this chapter and any other provisions of law relating to animals.

55.18 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded.

55.19 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 (which will include trapping expenses, if necessary), and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

55.20 DISPOSITION OF DISEASED AND INJURED ANIMALS. The City Veterinarian may euthanize any diseased or injured animal found at large or impounded. Impounded animals that contract a contagious disease or diseases together with other exposed impounded animals may be euthanized by the City Veterinarian. Every reasonable effort will be made to locate and notify the owner of the animal before euthanasia and the owner’s request regarding the disposition of the animal will be honored unless the City Veterinarian determines it is inhumane to the animal.

55.21 DESTRUCTION OF ANIMALS AT LARGE. It is lawful for an animal control officer to destroy, if necessary, any animal found at large which cannot be captured.

55.22 REPORT OF BITES.

1. Every physician or other practitioner shall report in writing to the Linn County Board of Health the name and address of any person treated for bites inflicted by an animal, with such other information as will assist in the prevention of rabies.

2. Every veterinarian shall report to the County Board of Health any diagnosis of rabies in an animal made by or under the supervision of said veterinarian. Every veterinarian shall report to the Board of Health the name and address of the owner of any animal treated for bites inflicted by another animal.
3. The owner of any animal or any person having knowledge of any biting or causing a skin abrasion upon any person in the City shall promptly report such fact to the local Board of Health or law enforcement official.

55.23 QUARANTINE OF ANIMALS. An owner whose animal is suspected of having rabies or other disease communicable to humans, or which has bitten or caused a skin abrasion upon a human, shall place the animal in isolation under quarantine upon the direction of the City Veterinarian for ten days. In the event that the animal has had current rabies shots, the City Veterinarian may authorize the owner to quarantine the animal at the owner’s home. In the event the animal has not had current rabies shots, or in the event that it is unknown if the shots are current, or in the event evidence is not produced satisfactory to the City Veterinarian that the shots are current, or for any other reason that the City Veterinarian so determines, the animal shall be quarantined at the animal shelter or licensed veterinary hospital, and all costs of such confinement shall be paid by the owner. 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.

55.24 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.

55.25 INFRACTIONS. All infractions of this chapter shall be enforced under the City’s municipal infraction chapter, Chapter 3 of this Code of Ordinances.
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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Center Point Traffic Code.”

60.02 Definitions

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. “Stop” means when required, the complete cessation of movement.

8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with
other traffic or in compliance with the directions of a peace officer or traffic control
sign or signal.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)
60.08 **PARADES REGULATED.** No person shall conduct or cause any parade on any street except as provided herein:

1. **“Parade” Defined.** “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. **Permit Required.** No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. **Parade Not A Street Obstruction.** Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

4. **Control By Police 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; Installation
61.04 Traffic Lanes

61.02 Compliance
61.05 Necessity of Signs

61.03 Crosswalks
61.06 Standards

61.01 TRAFFIC CONTROL DEVICES; INSTALLATION. The Council shall have the power to establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, areas for angle parking, 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. 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.

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

(Code of Iowa, Sec. 321.256)

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


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


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

61.06 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)*
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.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
12. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
14. Section 321.194 – Special minor’s licenses.
15. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

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

18. Section 321.219 – Permitting unauthorized minor to drive.


21. Section 321.222 – Renting motor vehicle to another.

22. Section 321.223 – License inspected.


25. Section 321.234A – All-terrain vehicles.


27. Section 321.247 – Golf cart operation on City streets.


29. Section 321.259 – Unauthorized signs, signals or markings.

30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

31. Section 321.262 – Damage to vehicle.

32. Section 321.263 – Information and aid.

33. Section 321.264 – Striking unattended vehicle.

34. Section 321.265 – Striking fixtures upon a highway.

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

36. Section 321.278 – Drag racing prohibited.

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

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

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

40. Section 321.298 – Meeting and turning to right.

41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking and otherwise.
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.
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.
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.
88. Section 321.382 – Upgrade pulls; minimum speed.
89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
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.
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.
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.
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.
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.
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.
145. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 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 is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

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

   (Code of Iowa, Sec. 321.277)

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

   (Code of Iowa, Sec. 321.277A)
1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.11 JAKE BRAKES. It is unlawful for any person in any part of the City to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking of any vehicle, commonly referred to as “jake braking.”
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

63.06 Special School Speed Zones

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.

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 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. Iowa Street, from Franklin Street to east City limits.
B. Palo Road, from Maiden Street to the southernmost portion of the Road.

2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.
   
   A. Franklin Street, from intersection with Lewis Access Road to 950 feet south of the north City limits.
   B. Grubbs Street, from Franklin Street to east City limits.
   C. Main Street, from south line of cemetery to the northwest City limits.

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. Ford Lane, from Lewis Access Road to Palo Road.
   B. Lewis Access Road, from Ford Lane to Franklin Street.
   C. Lewis Access Road, from south City limits to intersection with Ford Lane.
   D. North Center Point Road, from Franklin Street intersection to water tower access road.
   E. North Center Point Road, from approximately 220 feet north of the driveway of 4369 North Center Point Road north to Lewis Access Road.

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. Iowa Street, from 1,320 feet east of west City limits to west City limits.
   B. North Center Point Road, from water tower access road to south City limits.
   C. North Center Point Road, from approximately 220 feet north of the driveway of 4369 North Center Point Road south to the south City limits.
   D. Lewis Access Road, from approximately 160 feet south of the center line of Ford Lane.

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)
63.06 SPECIAL SCHOOL SPEED ZONES. A speed in excess of the limits set forth below is unlawful on the following designated streets or parts thereof:

1. Fifteen (15) miles per hour on Valley Street from State Street to Iowa Street.
2. Fifteen (15) miles per hour on Summit Street from State Street to Iowa Street.
64.01 TURNING AT INTERSECTIONS. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(Code of Iowa, Sec. 321.311)

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

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

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

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district 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.
CHAPTER 65

STOP OR YIELD REQUIRED

65.01  Stop or Yield

65.02  School Stops

65.03  Stop Before Crossing Sidewalk

65.04  Stop When Traffic Is Obstructed

65.05  Yield to Pedestrians in Crosswalks

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

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

(Code of Iowa, Sec. 321.249)

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)
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# CHAPTER 66

## LOAD AND WEIGHT RESTRICTIONS

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### 66.01 TEMPORARY EMBARGO.

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

*(Code of Iowa, Sec. 321.471 & 472)*

### 66.02 PERMITS FOR EXCESS SIZE AND WEIGHT.

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

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

### 66.03 LOAD LIMITS UPON CERTAIN STREETS.

The maximum gross weight for all streets and alleys within the City limits is 5,000 pounds. When signs are erected giving notice of a gross weight limit, vehicles exceeding that gross weight may be operated up to the limit shown on said signs which are erected in accordance with Chapter 61 of this Traffic Code. The weight limitations imposed herein shall not apply to the following:

1. Emergency vehicles;
2. School buses;
3. Service vehicles incident to serving the gas, electric, water, sewer or street systems located within the City;
4. Vehicles performing trash, garbage or recycling collection services within the City;
5. Commercial vehicles, other than dump trucks or earth moving equipment making deliveries or pickups or performing services at properties located adjacent to said streets;
6. Public transportation vehicles picking up or discharging passengers within the City.

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

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)
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])
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 – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 Truck No Parking Zones
69.09 Snow Removal
69.10 Snow Routes
69.11 Declaration of Snow Removal Parking Ban

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 – 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)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than twenty-four (24) 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 this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.

(Code of Iowa, Sec. 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within 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. 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])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

(Code of Iowa, Sec. 321.358[15])
16. 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.

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

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

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

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

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

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

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

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

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

   B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.

69.08 OVERSIZED VEHICLE PARKING LIMITED. No person shall park a bus, motor home, motor truck, trailer, semi-trailer, truck tractor, boat or boat 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. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle on any of the following designated streets. When
actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

The business district shall consist of any property zoned Commercial C-1 or commercial C-2.

2. No person shall park any bus, motor home, motor truck, trailer, semi-trailer, truck tractor, boat or boat trailer or other motor vehicle with trailer attached which exceeds 72 inches in width and/or 18 feet in length on any street or alley for any period exceeding twenty four (24) hours.

69.09 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.

(Code of Iowa, 321.236[1])

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

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

69.11 DECLARATION OF SNOW REMOVAL PARKING BAN.

A. When predictions or occurrences of freezing rain, icing conditions or snow indicate the need, the Mayor, City Administrator or designee, shall proclaim a snow removal parking emergency is in effect, and the news media shall be contacted to publicize the proclamation and the parking rules under the emergency. The snow removal emergency shall remain in effect until winter maintenance operations have ceased or when normal pavement conditions have been restored.

B. A Snow removal emergency parking ban shall begin at the time stated in the snow emergency announcement and shall continue until announcement of its termination.

C. The forgoing prohibition shall not apply to vehicles that have an approved winter storm emergency parking sticker affixed thereto. The City Administrator, City Clerk or designee may issue winter storm emergency parking stickers in situations where he or she finds that alternative parking is not reasonably available.
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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03  PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine:

1. Parking prohibited zone
2. Left wheel to curb
3. Blocking a public or private drive
4. Parked over 24 continuous hours
5. Snow route parking
6. Improper use of a persons with disabilities parking permit

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

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

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

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

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

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

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

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

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

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

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

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the Code of Iowa or a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

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

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

2. Snowmobile Routes. Snowmobiles shall be allowed to operate on designated snowmobile routes within the city limits. Snowmobile routes shall be visibly marked as a snowmobile route with appropriate signage.


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

A. Snowmobiles shall be allowed to operate on prohibited streets when the operator is taking the most direct route to the snowmobile route or home from the snowmobile route.

B. 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])

C. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided:

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

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

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

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

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

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

6. 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.

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

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

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

(Code of Iowa, Sec. 321I.10[1 & 3])

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

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

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

(Code of Iowa, Sec. 321I.14[1h])
4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

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

**75.06 HOURS OF OPERATION.** No snowmobile shall be operated in the City between the hours of 10:00 p.m. to 7:00 a.m. Sunday through Thursday and 12:00 midnight to 7:00 a.m. Friday through Saturday except for emergency situations or for loading and unloading from a transport trailer.

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

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

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

(Code of Iowa, Sec. 321G.10 & 321I.11)
CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Single File

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Pedestrians

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

76.04 Single File. Persons riding bicycles upon any street in the Business District shall ride or travel in single file; when riding upon any other street, said persons shall not ride more than two (2) abreast. Bicycles shall be ridden on the right-hand side of the center of the street and shall travel as near to the right-hand curb as possible, and riders shall exercise due care when passing a standing vehicle or a vehicle proceeding in the same direction.

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  **PEDESTRIANS.** Pedestrians on sidewalks shall have the right-of-way at all times over persons riding bicycles on the sidewalk. Any person riding a bicycle on a sidewalk shall turn off the sidewalk when meeting or passing a pedestrian.

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)
CHAPTER 76  

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.
CHAPTER 77

SKATEBOARDS, COASTERS AND SIMILAR DEVICES

77.01 Purpose and Scope

The purpose of this chapter is to control the use of skateboards, coasters and other similar devices, and these regulations apply to all skateboards, coasters or similar devices operated within the City.

77.02 Use Prohibited

No person upon a skateboard, coaster or similar device shall operate or use such on any street, highway or alley, or upon any sculpture or monument or on any planter, free-standing flower or tree box, flower bed or garden, or on any park equipment, public stairway or access ramps built for use by the disabled or other people, or on any area designed and used for public seating.

77.03 Use Limited Upon Sidewalks

Pedestrians walking upon sidewalks shall have the right-of-way at all times over persons using skateboards, coasters or similar devices upon the sidewalks. Any person using a skateboard, coaster or similar device upon any sidewalk shall turn off the sidewalk when meeting or passing pedestrians. Skateboards, coasters and similar devices shall not be used upon the sidewalks after dusk or before dawn. No skateboards, coasters and similar devices shall be used on the sidewalks within twenty (20) feet of the entrance of any business or public facility. No person shall construct a ramp or obstruction at any time upon any sidewalk except as provided under Section 136.08(11) of this Code of Ordinances, Ramps for Persons with Disabilities.

77.04 Special Penalty

Any person violating the provisions of this chapter may, in lieu of the standard penalty provided for violations of this Code of Ordinances, suffer such skateboard, coaster or similar device used by such person 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. At the discretion of the peace officer, any person violating the provisions of this chapter may either be cited by the officer or said person’s skateboard or other device impounded, or both.
CHAPTER 78

GOLF CARTS

78.01 Purpose. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the Code of Iowa, as amended. This chapter applies whenever a golf cart is operated on any street or alley, subject to those exceptions stated herein.

78.02 Definition. For use in this chapter “golf cart” means a motorized vehicle manufactured in compliance with the National Highway and Traffic Safety Administration Standards for low-speed vehicles in 49 CFR §571.500, i.e. a 4- or 3-wheeled motor vehicle, other than a truck, whose speed attainable in 1 mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface.

78.03 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.

78.04 General Regulations. The operation of golf carts is allowed on City streets by persons over the age of 18, possessing a valid driver’s license. The golf carts shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation, shall have adequate brakes and shall meet any other safety requirements imposed by the City and the State. Golf carts shall be registered with the City annually and proof of insurance must be shown at the time of registration. The annual registration fee shall be $25.00.

(Code of Iowa, Sec. 321.247)

78.05 Places of Operation. The operators of golf carts shall comply with the following restrictions as to where golf carts may be operated within the City:

1. Golf carts may be operated only on City streets which are not primary road extensions through the City, and are specifically prohibited on:
   A. Green Street, from Main Street to the west corporate line.
   B. Grubbs Street within the City.
   C. Franklin Street.
D. Lewis Access Road.
E. North Center Point Road.
F. Ford Lane.

2. Direct Crossing. Golf carts are allowed to cross a City street which is a primary road extension through the City, provided:

A. The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
B. The golf cart is brought to a complete stop before crossing the street;
C. The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
D. In crossing a divided street, the crossing is made only at an intersection of such street with another street.

78.06 HOURS OF OPERATION. Golf carts may be operated on City streets only from sunrise to sunset in the months beginning April 1 and continuing through October 31.
CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

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

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

1. “Abandoned vehicle” means any of the following:
   A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
   B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
   F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.
80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

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

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

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

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

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

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])
CHAPTER 90

WATER SERVICE SYSTEM

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 Public Works Director 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.
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. The Clerk shall be notified in writing by the Superintendent when water service is provided.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

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 or excavates for the purpose of water service repair, 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 exact location of the proposed excavation and/or main tap, the name and address of the person who will do the work and be responsible for the proper completion of 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. The permit shall be numbered and shall indicate the date of issuance. 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. Permits are to be placed on file in the Clerk’s office. The permit may be revoked at any time for any violation of these chapters.

90.06 MAIN TAP PERMIT FEE AND WATER SYSTEM IMPACT FEE.

1. Main Tap Permit Fee. A main tap permit fee in an amount to be set by Council resolution shall be paid at the time a building permit is issued. Said fee will cover the cost to the City for supervision and inspection of the excavation and main tap by the Superintendent.

2. Water System Impact Fee. A water system impact fee, in an amount to be set by Council resolution, shall be paid at the time a building permit is issued and before a tap of the water system.

3. Impact Fee Waived. The Council may, by resolution, waive the water system impact fee for other governmental bodies. Where an existing house is replaced, no impact fee shall be required.
90.07 **COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the Uniform Plumbing Code.

90.08 **PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a competent plumber with a current bond on file at the office of the Clerk. The bond shall be a surety bond in the sum of five thousand dollars ($5,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

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. A brass saddle will be used on every service tap. 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. The Clerk’s office shall be notified each time the water main is tapped. Payment for service shall commence from this date.

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 in no case smaller than one size smaller than the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent who shall maintain an accurate record of the same.

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. The Superintendent shall maintain an up-to-date record of all curb stop locations. All new curb valves will be located within 1 foot of the sidewalk on the street side. If there is no sidewalk, it will be located within 10 feet of the edge of the road.

90.15 INTERIOR VALVE. There shall be installed two shut-off valves (of the ball valve type) or waste cocks or one of each on every service pipe inside the building, one to be located on either side of the water meter in order that the water can be shut off conveniently, the meter removed and the pipes drained.

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, and the plumber’s bond shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

**90.18 SHUTTING OFF WATER SUPPLY.** After following the procedures set out in Section 92.05, 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.** It is unlawful for any person except the Superintendent or a plumber with permission from the Superintendent to turn water on at the curb valve.

**90.20 FIRE HYDRANTS.** No person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**90.21 WELLS.** After the effective date of this Chapter, no person shall construct or reconstruct (re-drill) a well, for the production of water when the property to be served has a municipal water main adjacent to said property, except that property owners may construct and/or reconstruct existing wells that are used solely to service agricultural livestock or for irrigation, and other non-human uses. The replacement and repair of pump equipment will be allowed. A permit shall be required for any such construction, reconstruction or pump repair or replacement. The Council may approve a request to construct or reconstruct a well for human consumption or other uses when municipal water services are not currently available to the property. Any person granted permission to construct or reconstruct a well may, as a condition of that permission, be required to extend and connect to the municipal system, pay the required fees, and exclusively use municipal water when:

1. Any new construction is undertaken on the property, and the municipal water system is immediately adjacent or along said property; or

2. Testing or inspection by Linn County Health Department or any other agency approved by the City indicates that further use of the well is a health hazard and the permission to construct or reconstruct the same may be conditioned upon periodic testing.

A person wishing to construct or reconstruct a well pursuant to this section shall make an application with the City and, upon approval of the same, shall sign a Memorandum of Agreement agreeing to the provisions of this section, with said Agreement to be recorded in the offices of the Linn County Recorder at the expense of the property owner.
CHAPTER 91

WATER METERS

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 and installed by the Public Works. Builders shall pay a fee to the City for installation of a new meter by the City at the time of applying for a construction permit and notify City Hall when ready for installation. Customers wishing to have an additional meter for non-sewered water service for irrigation and other allowable uses shall pay a fee to the City for installation of non-sewered meter and sign agreement for receipt of the meter and use of non-sewered water service. All water meters remain property of the City and may be replaced when necessary at the City's discretion. Replacement meters shall be furnished at the cost of the City unless the replacement is necessary due to the fault of the homeowner.

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 Accessibility. The property owner shall be responsible for keeping the meter reader button accessible to the meter readers.

91.05 Meter Setting. The property owner shall provide all necessary piping and fittings for proper setting of the meter by the City including a ball valve before and after where the meter will be set and on a horizontal plane.

91.06 Meter Repairs. Whenever a water meter is found to be out of order, the Public Works shall replace the meter with a new meter at the City's expense unless the damage is due to negligence and then the owner will be billed for the repair and/or replacement.

91.07 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.
91.08 **ACCURACY TEST.** The Public Works shall make a test of the accuracy of any water meter at any time when requested in writing, but not more often than once in 18 months. The meter will be sent to Iowa Rural Water Association (IRWA) for testing and if the meter is found to be inaccurate, the City will replace the meter and refund to the customer for overcharges collected for the last billing period. If the meter is within the manufacturer’s specifications, the customer will pay the cost for the testing.

91.09 **METER VERIFICATION.** The Superintendent shall inspect each meter and verify the reading at least once during every four-year period.
CHAPTER 92
WATER RATES

92.01 Service Charges. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not. (Code of Iowa, Sec. 384.84)

92.02 Rates For Service. Water service shall be furnished at the following monthly rates within the City (Code of Iowa, Sec. 384.84):

1. 0 – 150 cubic feet - $16.32 (minimum bill).

2. All over 150 cubic feet - $2.94 per 100 cubic feet or any portion thereof.

3. There shall be a charge for water purchased in bulk directly from the municipal water department as follows:
   a. $17.00 per 1,000 gallons or any portion thereof.
   b. $50.00 charge for installation of meter by City Public Works Department, meter shall be located at 200 Franklin Street.

4. Water rates shall increase each fiscal year by 2% as shown below:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Minimum Bill</th>
<th>Over 150 Cubic Feet</th>
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<tbody>
<tr>
<td>FY16</td>
<td>$16.32</td>
<td>FY16: $2.94</td>
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<tr>
<td>FY17</td>
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<td>FY17: $3.00</td>
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<td>$16.80</td>
<td>FY18: $3.06</td>
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<tr>
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<td>$18.55</td>
<td>FY23: $3.37</td>
</tr>
</tbody>
</table>

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 & 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. Reading of Meters for Billing. Meters shall be read bimonthly by the Superintendent.

2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the 15th day of January and each alternate month thereafter. Bills shall be mailed within 24 hours of preparation.

3. Bills Payable. Bills for combined service accounts shall be due upon receipt. The latest date for payment of a net bill shall be 20 days after billing. This date shall be entered on the bill as the “due date.” Payment shall be made at or addressed to the office of the Clerk. An after-hours deposit box shall be available for evening or weekend payments.

4. Late Payment Penalty. Accounts not paid by the due date shall be considered delinquent. A penalty equal to ten percent (10%) of the net bill shall be added to each delinquent account.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk’s office shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested within ten days after notice of the proposed disconnection, the Clerk’s office shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the decision within five (5) days, to the Council, and if the Council finds that
disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A delinquency posting fee of twenty-five ($25) shall be paid to the Clerk’s office during regular working hours. A fee of fifty dollars ($50.00) shall be paid to the Clerk’s office during regular working hours and one hundred dollars ($100.00) after hours shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

5. Payment. Payment must be made before the Public Works Department closes at 3:30 p.m. in order for service to be restored that day. If payment is not received in the Clerk's office by 3:30 p.m. the water service will remain off until the following business day. Any reconnects other than normal policy will be at the customer's expense to cover Public Works Department employee overtime and any parts/services rendered.

6. Extensions. You may apply for an extension due to specific circumstances to extend the timeframe prior to disconnection. Only one (1) extension shall be granted per 12 month period. Extension applications are available in the Clerk’s office.

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 after forty-five (45) days of the date of billing shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord’s written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Code of Iowa, Sec. 384.84)
92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. 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 CUSTOMER DEPOSITS. There shall be required from every customer or prospective customer, with the exception of property owners having established a current good credit history of at least a two-year duration with the City Water Utility, a $100.00 deposit, prior to providing service, intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

92.10 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. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.
CHAPTER 93
WATER CONSERVATION

93.01 WATER EMERGENCY AND RATIONING. A water emergency shall exist whenever the Public Works Director determines that the water supply or the capacity of the waterworks system to deliver water is approaching levels at which water rationing will be required to preserve the ability of the City to deliver a necessary amount of water to each water user and the Mayor or Council declares a water emergency. When a water emergency exists, the following water conservation stages shall be in effect at the following times:

1. Stage 1 Voluntary Water Conservation. Voluntary water conservation shall be in effect whenever a water emergency is declared. Procedure for Stage 1 shall be as follows:
   A. The City will make public announcement in the news media that Stage 1 voluntary water conservation is in effect. The announcements will include a description of the provisions in effect.
   B. Persons will be urged to conserve water in every way possible, in their homes and in their businesses.
   C. People will be urged to avoid sprinkling their lawns and avoid watering gardens, shrubs or trees with a hose, unless the lawn, garden, shrubs or plants need the water to avoid damage, and at any rate not more often than every second day for not more than four hours a day.

2. Stage 2 Water Rationing. Stage 2 water rationing will be in effect whenever total consumption has not been reduced sufficiently by Stage 1 measures to abate the water emergency. The following requirements will be in effect.
   A. The City will make public announcements through the news media concerning Stage 2 water rationing, whenever Stage 2 water rationing is in effect. The announcement will include a description of the restrictions.
   B. No person shall use water to sprinkle a lawn, or use water through a hose to water any garden, tree or shrub, except between the hours of 8:00 p.m. and midnight or between the hours of 6:00 a.m. and 10:00 a.m. of any day on which sprinkling is permitted. Sprinkling shall be permitted on even numbered calendar days at locations with even numbered addresses and on odd numbered calendar days at locations with odd numbered addresses. These restrictions shall apply to all residences and to all businesses and institutions having lawns, gardens, trees or shrubs and shall be followed at all
parks and public buildings owned by the City. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind.

C. No water shall be used from a hose to wash automobiles, except at places of business where autos are washed on every business day either with attendants, with automatic equipment or by self-service. Any person may wash an automobile with water from a bucket.

D. No swimming pools shall be filled. Swimming pools that were filled before Stage 2 water conservation went into effect may have water added to make up losses through evaporation or splashing. Water lost through draining or through leaks in the pool may not be made up during Stage 2 water rationing.

3. Stage 3 Water Rationing. Stage 3 water rationing will be in effect whenever total consumption has not been reduced sufficiently by Stage 2 measures to abate the water emergency. The following requirements will be in effect:

A. The City will make public announcements that Stage 3 water rationing is in effect. The announcement will include a description of the restrictions.

B. No person shall use any water to sprinkle any lawn, or use water through a hose to water any garden, tree or shrub, except between the hours of 6:00 a.m. and 10:00 a.m. of any day on which sprinkling is permitted. Sprinkling will be permitted on Mondays at all locations having even numbered addresses and on Thursdays at all locations having odd numbered addresses. These restrictions shall apply to all residences and to all businesses and institutions having lawns, gardens, trees or shrubs, and shall be followed at all parks and public buildings owned by the City. These restrictions shall not apply to any person engaged in the business of growing or selling plants of any kind.

C. No water shall be used from a hose to wash automobiles, except at places of business where autos are washed on every business day either with attendants, with automatic equipment or by self-service. Any person may wash an automobile with water from a bucket.

D. No swimming pools will be filled and no water shall be added to any swimming pool.

4. Stage 4 Water Rationing. Stage 4 water rationing shall be in effect whenever restrictions beyond Stage 3 water rationing are necessary so that no water customer inside the City limits will be without water. The Mayor shall impose Stage 4 water rationing when in the Mayor’s opinion such restrictions are required under the terms of this subsection, provided that the Council may continue the Stage 4 in effect, continue it in effect with changes, or discontinue Stage 4 water rationing. The following restrictions will be in effect:
A. The City will make public announcement through the news media that Stage 4 water rationing is in effect. The announcements will include a description of the provisions in effect.

B. No water will be used for sprinkling lawns, and no water will be used from a hose to water any garden, shrubs or trees. These restrictions will not apply to any person engaged in the business of growing or selling plants of any kind.

C. No water shall be used from a hose to wash automobiles, except at places of business where autos are washed on every business day either with attendants, with automatic equipment or by self-service. Any person may wash an automobile with water from a bucket.

D. No swimming pools will be filled and no water shall be added to any swimming pool.

E. It is the policy of the City to keep Stage 4 in effect for no longer than absolutely necessary. The Mayor and Council shall take steps to lift the Stage 4 restrictions as soon as lifting the restrictions will not result in any water user inside the City limits being unable to get water.

93.02 REPORTS AND REVIEW OF RATIONING. The Public Works Director will make reports to the Council at least once a week while any stage of water rationing is in effect. The Council will review the reports and consider any changes that may be desirable in the regulations set out in this chapter.

93.03 EXPLANATIONS. The Public Works Director may from time to time send, along with water bills, an explanation of the regulations set out in this chapter.

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# CHAPTER 95

## SANITARY SEWER SYSTEM

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### 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 Public Works Director 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 sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(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.

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

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

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

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.
CHAPTER 96
BUILDING SEWERS AND CONNECTIONS

96.01 PERMIT. 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 AND IMPACT FEE. The person who makes the application shall pay a fee set by Council resolution to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, a sewer system impact fee, in an amount set by Council resolution, shall be paid at the time a building permit is issued and before a connection is made to the sewer system. The Council may, by resolution, waive the sewer system impact fee for other governmental bodies.

96.03 BOND REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a competent plumber with a current bond on file at the office of the Clerk. The bond shall be a surety bond in the sum of five thousand dollars ($5,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the International
Additional City requirements include:

1. Backflow prevention valve. A valve meeting City specifications to prevent backflow from the sanitary sewer main shall be installed by the property owner in the property owner’s extension on the occurrence of the following:
   a. installation of all new sanitary sewer hookups; or
   b. undertaking of significant renovation of the property.

2. Moving of building or structure. When any building or structure is razed or moved, and sewer service is discontinued, all sewer connections shall be properly stopped or cut off at the main, according to the specifications of the City and approved by an inspector of the City.

96.05 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, a saddle “Y” shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent’s direction if such connection is approved.

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

96.07 PROPERTY OWNER’S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.08 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

(Code of Iowa, Sec. 364.12[3])
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CHAPTER 97

USE OF PUBLIC SEWERS

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.


10. Unusual Wastes. Materials which exert or cause:
    A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
    B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
    C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
    D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

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

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

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
97.05 **RESTRICTED DISCHARGES – POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;
2. **Pretreatment.** Require pretreatment to an acceptable condition for discharge to the public sewers;
3. **Controls Imposed.** Require control over the quantities and rates of discharge; and/or
4. **Special Charges.** Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

97.08 **TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour
composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).
### CHAPTER 98

#### ON-SITE WASTEWATER SYSTEMS

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<td>98.01</td>
<td>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.</td>
</tr>
<tr>
<td>98.02</td>
<td>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.</td>
</tr>
<tr>
<td>98.03</td>
<td>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.</td>
</tr>
<tr>
<td>98.04</td>
<td>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 and the City.</td>
</tr>
<tr>
<td>98.05</td>
<td>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.</td>
</tr>
<tr>
<td>98.06</td>
<td>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.</td>
</tr>
<tr>
<td>98.07</td>
<td>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</td>
</tr>
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*(Code of Iowa, Sec. 364.12[3f]*)

*(IAC, 567-69.1[3]*)

*(IAC, 567-69.1[3 & 4]*)

*(IAC, 567-69.1[3]*)
Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.
CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Sanitary sewer service shall be furnished at the following monthly rates within the City:

1. 0 – 150 cubic feet - $21.47 (minimum bill)

2. All over 150 cubic feet - $5.93 per 100 cubic feet or any portion thereof, of water service.

(Code of Iowa, Sec. 384.84)

99.03 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.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer’s expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 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. At no time will a partial payment be accepted on such joint billing. 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. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 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.
CHAPTER 100

STORM WATER DRAINAGE SYSTEM
DISTRICT UTILITY

100.01 Purpose. The purpose of this chapter is to establish a Storm Water Drainage System District Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City’s storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

100.02 Definitions. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. “Connection” means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.

2. “Culvert” means a device allowing storm water movement under/through a driveway or street as part of an open ditch storm water drainage system.

3. “Storm and surface water drainage system” means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.

4. “Unit” means each household, each place of commerce/education/government/religion, or each industry, whether in a single building on a single lot or in a multiple-use building on a single lot or multiple lot complex. Each unit shall be charged individually, but where the complex is billed under
one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex.

5. “User” means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84[5] of the Code of Iowa, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84[5])

100.04 RATES. Each user shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The service charges shall be billed as part of a combined service account which means a customer service account for the provision of two or more utility services. The Council may adopt rules, charges, rates, and fees for the use of the City’s storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City’s system, the costs of bond repayment, regulation, administration, and services of the City. The monthly rates shall be as follows:

1. $1 residential $2 commercial / industrial

2. Monthly rates for each fiscal year shall be as follows:
   - FY15: $1.00 residential $2.00 commercial / industrial
   - FY16: $1.50 residential $3.00 commercial / industrial
   - FY17: $2.00 residential $4.00 commercial / industrial
   - FY18: $2.50 residential $5.00 commercial / industrial
   - FY19: $3.00 residential $6.00 commercial / industrial
   - FY20: $3.50 residential $7.00 commercial / industrial
   - FY21: $4.00 residential $8.00 commercial / industrial
   - FY22: $4.50 residential $9.00 commercial / industrial
   - FY23: $5.00 residential $10.00 commercial / industrial

100.05 PAYMENT OF BILLS. All Storm Water Drainage System District charges shall be 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. All City services may be discontinued in accordance with the CODE OF ORDINANCES, CENTER POINT, IOWA
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.

(Code of Iowa, Sec. 384.84[2b] and [2d])

100.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such 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.
CHAPTER 101

STORM WATER MANAGEMENT

101.01 Goal. The goal of this chapter is to provide comprehensive management and control of storm water runoff in an environmentally sound, safe and economical manner such that only minor inconvenience is experienced by the people and property within the City and its two-mile extraterritorial jurisdiction.

101.02 Definitions. Unless specifically defined below, words or phrases used in this chapter shall be defined in accordance with the definitions in Section 176.39 (Flood Plain Regulations) and of Chapter 175 (Subdivision Regulations). Words or phrases not defined below or in said chapters 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. "BMP" or "best management practice" means a practice or combination of practices that are the most effective and practicable (including technological, economic and institutional considerations) means of controlling point or nonpoint source pollutants at levels compatible with environmental quality goals.

2. "Capacity" (of a storm water facility) means the maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.

3. "Channel" means a natural or manmade open watercourse with definite bed and banks which periodically or continuously contains moving water; or which forms a link between two bodies of water.

4. "City Engineer" means the City Engineer of the City or his/her designated representative.

5. "Civil engineer" means a professional engineer licensed in the State of Iowa to practice in the field of civil works.
6. "Comprehensive Plan" means the plan or series of plans prepared by the City or by the Corridor Metropolitan Planning Organization to guide the development and redevelopment of the City and the surrounding area. Such a comprehensive plan may include a Major Street Plan, Land Use Policy Plan, Open Space Plan, and other applicable plans available through the Department of Planning and Development.

7. "Control structure" means part of a storm water management facility designed to regulate the storm water runoff release rate.


9. "Detention basin" means a storm water management facility designed, constructed or modified to provide short term storage of storm water runoff, which reduces the peak overflow to a rate less than the peak inflow.

10. "Development" means the improvement of land from its existing state or significant alteration.

11. "Drainage area" means an area of land contributing to storm water runoff.

12. "Drainage system" means the surface and sub-surface system for the removal of water from land, including both natural elements (streams, ponds, etc.) and manmade elements (ditches, channels, storm sewers, etc.).

13. "First flush" means an initial rain event up to one inch (1") of accumulation that carries soil particles and pollutants from streets and parking lots into the storm sewer system and eventually depositing the pollutants into the streams or lakes.

14. "Five-year storm" means a rainfall of given intensity and duration having a twenty percent (20%) chance of occurring in any one year. This does not imply that it will occur only once in five (5) years, or having occurred, will not happen again for five (5) years.

15. "Hundred-year storm" means a rainfall of given intensity and duration having a one percent (1%) chance of occurring in any one year. This does not imply that it will occur only once in 100 years, or having occurred, will not happen again for 100 years.

16. "Hydrograph" means a graph showing, for a given point on a stream or conduit, the storm water runoff flow rate with respect to time.

17. "Infiltration" means the downward movement of water from the land surfaces into the soil profile.

18. "Infiltration basin" means a type of best management practice (BMP) that is used to manage storm water runoff, prevent flooding and downstream erosion, and improve water quality in an adjacent river, stream, lake or bay. It is essentially a shallow artificial pond that is designed to infiltrate storm water through permeable soils into the groundwater aquifer. Infiltration basins do not discharge to a surface water body under most storm conditions, but are designed with overflow structures (pipes, weirs, etc.) that operate during flood conditions.
19. "Overflow system" means the path taken by storm water runoff as a result of flows which exceed the capacity of the underground drainage system. This path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property with an easement.

20. "Post-development runoff" means the volume and rate of flow of storm water discharged from a drainage area after a proposed development or other manmade action involving construction, excavation, or fill that alters land or vegetation is completed.

21. "Pre-development runoff" means the volume and rate of flow of storm water discharged from a drainage area prior to a proposed development or other manmade action involving construction, excavation or fill that alters land or vegetation.

22. "Retention basin" means a storm water management facility designed, constructed or modified to provide long-term storage of storm water runoff, which reduces the peak outflow during a specific rainfall event. This facility is typically designed to maintain a specific water elevation (privately owned).

23. "Riparian area" means a vegetated ecosystem along a water body through which energy, materials and water pass. Riparian areas characteristically have a high water table and are subject to periodic flooding.

24. "Site" means a lot, parcel, or tract of land, or portion thereof, where development is occurring, or has occurred, and may, or may not, require additional permits.

25. "Storm sewer system" means facilities for the conveyance of storm water runoff, typically a series of conduits and appurtenances, to accommodate frequent storms, not generating large peak discharges. These facilities usually include conduits, street gutters and small swales.

26. "Storm water drainage system" means all manmade facilities and structures and all natural watercourses that are owned by the City, or that are within a drainage easement owned by the City, and that are used for collection, storage, treatment, and conveyances of storm water from any area, through any area. This includes without limitation all storm water facilities, canals, creeks, curb and gutter, dams, ditches, floodwalls, flumes, gulches, gullies, levees, ravines, siphons, streams and swales. For the purpose of illicit discharge regulation, any discharge to an area tributary to the storm water drainage system shall be treated as a discharge to the storm water drainage system.

27. "Storm water facilities" means anything built or used for the control of storm water, including without limitation catch basins, channels, culverts, detention basins, energy dissipation structures, inlets, manholes, outlets, pipes and other conduits, retention basins, and roadways and gutters.

28. "Storm water management plan" or "SWMP" means a site plan, certified by a Civil Engineer including materials, construction phasing, grading activities, and methods used for mitigation of increased storm water runoff from the site under the requirements set forth in the Design Standards Manual.

29. "Storm Water Pollution Prevention Plan" means a document conforming to the requirements therefore contained in General Permit No.2 and this chapter, prepared and certified by a design professional as defined herein.
30. "SWPPP" means Storm Water Pollution Prevention Plan.
31. "Storm water runoff" means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.
32. "Storm water runoff release rate" means the amount of storm water runoff discharged from dominant to subservient land.
33. "Storm water storage area" means an area designated to store excess storm water.
34. "Watercourse" means any stream, creek, reservoir, lake, pond, or natural or artificial drainage way.
35. "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (i) at least periodically, the land supports predominately hydrophytes; (ii) the substrate is predominately undrained hydric soil; and (iii) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of the year. The Corp of Engineers have jurisdiction over wetlands determined to be of importance.

101.03 RELATED ORDINANCES.
1. Supplemented Ordinances. The following chapters of this Code of Ordinances are hereby supplemented:
   A. Chapter 166 Subdivision Ordinance
   B. Chapter 165 - Zoning Ordinance
   C. Chapter 158 - Building Code
   D. Chapter 100 - Storm Water Drainage System District Utility
2. Greater Restrictions. Where conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards shall govern.

101.04 EXEMPTIONS. The following are exempt from the requirements of this chapter:
1. Agricultural use of land.
2. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.
3. Areas deemed appropriate by the City Engineer.

101.05 APPLICATIONS.
1. The requirements of this chapter apply to all development within the City.
2. Storm water detention basins intended to serve single-family residential development shall be publicly owned and maintained, unless approved otherwise by the City Engineer.
3. Lots (other than single-family lots) with an overall area of one acre or more shall provide on-site storm water detention. Such lots with an overall area less than one acre and an impervious surface greater than 11,000 square feet (approximately 1/4 acre) shall comply with one of the following, as approved by the City Engineer:
   
   A. Privately owned, on-site detention basin.
   
   B. Tributary to privately or publicly owned detention basin.

In some watersheds, on-site storm water detention may be required, at the discretion of the City Engineer, for said lots.

4. At the discretion of the City Engineer, if a detention basin serves other than single-family zoning districts and can provide storm water attenuation for a substantial drainage area, the facilities may be publicly owned and maintained.

101.06 SITE PLAN SUBMITTAL. A site plan containing information regarding storm water drainage facilities set forth in this chapter must be submitted and approved by the City Engineer before any person may:

1. Receive a building permit for new construction or relocation of a principal or accessory use or enlargement or extension of an existing use.

2. Reroute, deepen, narrow, enlarge, fill or in any way alter an existing storm water drainage system.

3. Pave a parking lot containing four or more parking spaces with asphaltic or Portland Cement concrete.

101.07 STORM WATER MANAGEMENT REQUIREMENTS.

1. For purposes of obtaining approval of a Storm Water Management Plan, an Iowa Licensed Professional Engineer shall design storm water drainage facilities in conformance with the Iowa Storm Water Management Manual and SUDAS. Storm water drainage facilities shall be designed with appropriate BMP’s such as detention and retention basins, grass swales, buffer strips, bio-retention and other similar types of infiltration basins and riparian areas, that will convey drainage through the property to one or more treatment areas such that no development shall cause downstream property owners, water courses, channels or conduits to receive storm water runoff from the proposed development site at a peak flow greater than that allowed by the standards in effect at the time of approval of the development.

2. In order to ensure that the storm water drainage facilities are constructed in accordance with the approved design, the property owner or applicant shall provide to the City an as-built plan detailing dimensions and elevations as well as certification that the approved facilities were installed and properly working. The as-built plan shall be completed by an Iowa Licensed Professional Engineer and submitted to the City prior to the acceptance of any improvements or issuance of a Certificate of Occupancy. At the discretion of the City, a property owner or applicant may satisfy the SWMP requirements by ensuring the conveyance of storm water discharge from the property to a regional public detention facility.

3. The Storm Water Management Plan, including on-site storm water detention facilities, shall be reviewed for the purpose of completing review of plans by the City Engineer prior
to issuance of foundation permits, or building permits for the site. The improvements shall be constructed prior to the issuance of final certificates of occupancy. The requirements of this subsection may be deferred at the discretion of the City Engineer.

4. For sites on which privately owned and maintained storm water detention and/or conveyance facilities are located, the property owner shall be responsible for the following:
   A. All future grading, repairs, and maintenance.
   B. Maintenance of the minimum storm water detention volume, as approved by the City Engineer.
   C. Maintenance of the detention basin control structure(s) and discharge pipe(s) to insure the maximum theoretical storm water release rate, as reviewed by the City Engineer, is not increased.

5. The property owner shall place no fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless otherwise approved by the City Engineer.

6. The property owner shall dedicate to the City, by instrument or final platting, any property on which public storm water detention basins will be located. Ingress-egress easements for maintenance of public facilities shall be provided prior to final site approval. Paved surface to basin is required if basin is not located adjacent to a public road.

7. All public storm sewers shall be dedicated to the City.

8. Upon determination that a site is not in compliance with the SWMP and/or DNR regulations, the City Engineer may issue an order to comply. The order shall describe the problem and specify a date whereby the work must be completed, and indicate the penalties to be assessed for further noncompliance.

9. Except as provided in this chapter, no person shall engage in construction of storm water management facilities, unless a Storm Water Management Plan has been reviewed and approved by the City Engineer.

10. Compliance with this chapter is achieved when:
    A. The site plan has been approved.
    B. The approved storm water drainage facilities have been implemented and are demonstrably in conformance with the approved site plan and Design Manual.

11. It is the intent of this section that review if the storm water drainage system be carried out simultaneously with the review of the request for a building permit. The site plan required under this chapter may be submitted in a form which will satisfy the site plan requirements set forth in the Building Code and Zoning Ordinance.

12. Before starting on construction regulated by this chapter, the applicant shall comply with the requirements set forth in other applicable ordinances with respect to submission and approval of subdivision plats, plans of improvements, building permits, inspections, appeals and similar matters, as well as requirements of State statutes and the regulations of any Department of the State of Iowa.
101.08 EROSION CONTROL. Storm water drainage facilities may not outlet onto adjacent property unless downstream land has adequate means to convey runoff and erosion control measures are taken to assure compliance with City and State erosion control regulations. Erosion resulting from such outlet may not exceed soil erosion limits established by State law.

101.09 INSPECTION OF STORM WATER MANAGEMENT FEATURES.

1. The City Public Works Director, or his authorized representatives, shall establish and maintain a storm water inspection schedule that includes but is not limited to:
   
   A. Routine inspections.
   B. Random inspections.
   C. Inspections based upon public complaint.
   D. Inspections based upon notice of possible violations.
   E. Inspection of areas identified as having a higher than typical detention requirement for sediment or pollutant exposure, such as construction sites, detention and retention basins.
   F. Inspections of businesses or industries of a type associated with discharges that begin to discharge above acceptable tolerance limits set by local, state or federal water or sediment quality standards, or the National Pollutant Discharge Elimination System (NPDES) Phase II storm water permit and the Clean Air Act.
   G. Joint inspections with other agencies inspecting per environmental or safety regulations as deemed necessary.

2. Inspections may include, but are not limited to the following:
   
   A. Evaluating the condition and current need for maintenance of storm water control features such as inlets, manholes, piping, detention and retention basins.
   B. Sampling discharges, surface water, ground water, sediment material or standing water in drainage control facilities as deemed necessary.
   C. Reviewing maintenance and repair records of storm water facilities.
   D. Verification that storm water facilities approved during construction plan review, such as detention basins, retention basins, piping and inlets are present and in good condition.

101.10 MAINTENANCE.

1. Owner Responsibility. The owner shall be responsible for all storm water drainage facilities not officially dedicated and accepted by the City.
A. The City shall notify the owner of a storm water drainage facility of the existence of a maintenance problem when the City has received a verified complaint or a field inspection report.

B. If after notice and a reasonable time, the owner fails to properly maintain the storm water drainage facility, the City may institute legal action to abate or enjoin the violation. The City may also authorize City employees to enter the storm water drainage facility to make it fully operative pursuant to City and State statute. The property owner may bear the costs of such action.

2. City Responsibility. The City shall be responsible for maintenance of land and storm water drainage facilities dedicated to the City. The City may provide maintenance for storm water storage areas serving more than one lot which have not been dedicated to the City. Such maintenance shall be subject to negotiation with the owner.

101.11 FINANCING.

1. Intent. It is the intent of this section to achieve the objectives of this chapter by:

   A. Assuring compliance with the SUDAS in terms of storm water runoff flow rates, thereby protecting downstream properties.

   B. Promoting equity in terms of the financial responsibility of owners developing either upstream or downstream properties.

2. Owner's Responsibilities. The owner and/or developer shall be responsible for:

   A. Installation of all storm water drainage facilities.

   B. Purchase of all storm sewer pipe and their construction materials.

   C. Design of all storm water drainage facilities in accordance with the Master Drainage Plan and Design Manual.

   D. Construction of all storm water storage areas, channels, swales, culverts, ditches, streets, and pumping stations and similar facilities.

   E. Payment of drainage fee at time of final plat.

3. City's Responsibilities. The City shall be responsible for:

   A. Payment to the owner or developer of the difference in actual purchase price between all pipes larger than 36 inches in size to be installed in a development and the cost of a 36-inch pipe of the same material. The cost of installing the pipe is exclusively the responsibility of the owner or developer. Notwithstanding subsection 5 of this section, the owner shall be completely responsible for materials and construction of bridges and culverts on streets not designated in the transportation plan, unless the Council directly requires the extension on a non-major street across a drainage way necessitating the installation of a bridge or culvert, in which case the City financial responsibility shall be for the
additional costs associated with the bridge or culvert but only to the extent that the costs exceed the costs of normal construction that would normally be borne by the owner.

B. Purchase of land designated for approved City-owned storm water storage areas. The land purchase price shall be established by independent appraisal of the fair market value of the subject parcel. The appraisal shall be obtained by the City and the cost of this appraisal shall be borne by the City.

   (1) In the event of a dispute between the owner and the City as to the value of the property, a second independent appraisal shall be obtained. Both the owner and the City shall have the opportunity to present evidence of this appraisal. The decision of this appraiser shall be considered the final administrative act within the City. The cost of this appraisal shall be borne equally by the owner and the City.

   (2) To qualify for City acquisition, storm water storage areas shall:

   (a) Be part of an approved subdivision plat inside the corporate limits of the City.

   (b) Serve more than one lot.

   (c) Be dedicated to the City.

   (d) Not be hard-surfaced.

   (e) Meet the design standards of the City.

   (f) Be inspected by the City.

4. Drainage Fee. The owner of all new subdivision final plats and all new final development plans shall pay a storm water management fee prior to Council consideration of such final plat. Such fee shall be established by resolution of the Council. Such money shall be placed in a special fund to be used for the purpose of financing the City's responsibilities set forth in subsection 3 of this section.

5. Shared Responsibilities. The owner and the City shall share financial responsibility in the following instances:

   A. Bridges and Culverts. The City shall be responsible for purchasing the materials for bridges and culverts needed as part of major streets as designated in the Transportation Plan. The owner shall be responsible for construction and installation of bridges and culverts. The owner shall be completely responsible for bridges and culverts on streets not designated in the Transportation Plan.

   B. Channels. The use of open channels with or without improvements is available to developers. Cost participation by the City is subject to negotiation between the developer and the City at the time of platting.
**101.12 SUMP PUMP CONNECTIONS.** Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump system to discharge excess water, shall have a permanently installed discharge line, providing for year-round discharge capability, under the circumstances and conditions as provided below:

1. **New Construction or Significant Renovation to Existing Structures.** All new construction of a principal use on a lot or existing structures undergoing significant renovation shall provide for connection of sump water discharge to a dedicated city drain tile or storm sewer whenever such drain tile or storm sewer is located immediately adjacent to such lot or located within twenty-five (25) feet thereof in the public right-of-way or drainage easement.

2. **Existing Development.** Upon determination that a nuisance exists, the City Engineer or designee is authorized to require a property owner to connect a sump water discharge hose or other device for storm water runoff to a dedicated city drain tile or storm sewer system, or surface drainage way or slope, provided such drain tile or storm sewer is located immediately adjacent to such lot or located within twenty-five (25) feet thereof in the public right-of-way or drainage easement, of the property causing the nuisance.

3. In any of the above circumstances, if there is no sub-drain available, the surface discharge point shall be located no closer than four (4) feet to the curb, property line, or public sidewalk. In no event shall discharge be allowed to cross public sidewalks or enter public streets, roads or alleys.

**101.13 SAVINGS CLAUSE.**

1. This chapter does not imply that site development will be free from storm water damage, nor shall it create liability on the part of the City for damages caused by unanticipated storms or storm sequences.

2. It is not intended that this chapter repeal, abrogate, or impair any statutory provision, administrative regulation, common law right, existing easement, express or implied, covenant or deed restriction controlling storm water. When this chapter imposes greater restrictions, however, the provisions of this chapter shall prevail.

3. Responsibility. The failure of City officials to observe or foresee hazardous or unsightly conditions, or impose other or additional conditions or requirements, or to deny or revoke permits or approvals, or to stop work in violation of this chapter shall not relieve the property owners of the consequences of their actions or inactions or result in the City, its officers or agents being liable therefore or on account thereof. Notwithstanding any provisions of this chapter, every applicant bears final and complete responsibility for compliance with the NPDES General Permit #2 and any other requirements of state or federal law or administrative rule.

**101.14 PENALTIES.** Any person who engages in development of a site within the area of jurisdiction of this chapter before meeting the requirements of this chapter shall be subject to one or more of the following:

1. A violation of this Code of Ordinances.

2. No foundation permits or building permits shall be issued for the property in question until the violations are corrected.
3. No permanent certificates of occupancy shall be issued for property in question until the violations are corrected. Any existing certificate of occupancy may be rescinded.

4. In the interpretation and application of this chapter, the provisions expressed herein shall be held to be the minimum requirements and shall be liberally construed in favor of the City consistent with the purposes and guiding principles of this chapter.

A. Whenever the City Public Works Director, or his authorized representative, finds such a nuisance exists, the City Public Works Director or authorized representative shall cause notice to be served on the owner of the property causing the nuisance in the same manner as provided in Chapter 50 of this Code of Ordinances.

B. In the event the person neglects or fails to abate the nuisance as directed by the City Public Works Director, or authorized representative, the City may cause the nuisance to be abated as provided in Chapter 50. The City Public Works Director or authorized representative may also choose to institute proceedings under civil enforcement as provided in this Code of Ordinances or municipal infractions as provided in Chapter 4 of this Code of Ordinances.

C. Any person ordered to abate a nuisance may have a hearing and appeal as provided under Chapter 50 of this Code of Ordinances.
CHAPTER 105

SOLID WASTE CONTROL

105.01  Purpose
The purpose of this chapter and Chapters 106 and 107 in this Code of Ordinances 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. “Brush” means woody stems and branches greater than one-half-inch diameter, evergreen trimmings and thorny brush.

2. “Director” means the direction of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.10[2b])

3. “Discard” means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

9. “Rubbish” means non-putrescible solid waste consisting of combustible wastes such as paper and cardboard.

(IAC, 567-100.2)

10. “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)

11. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

(Code of Iowa, Sec. 455B.301)

12. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa. Vehicles are included under “bulky waste” for the purposes of Chapter 106 and Chapter 107 of this Code of Ordinances.

(Code of Iowa, Sec. 455B.301)

13. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance.
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. As used in this section, “open burning” means the burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack. No person shall allow, cause or permit open burning of combustible materials, except that the following are permitted:

(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. 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. Larger ceremonial fires (e.g., school pep rally bonfires) require the approval of the Fire Chief. Such fires must not be started for the purpose of refuse or waste disposal. Persons starting such fires must exercise due diligence in attending them. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

4. 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 and the Linn County Public Health Department.

(IAC, 567-23.2[3g])

5. Yard Waste and Landscape Waste. Open burning of yard waste and landscape waste on the premises where the waste is generated – to be limited to the period between March 15 and June 1 in the spring and between September 15 and December 1 in the fall. No burning is allowed within three (3) feet of the traveled portion of a
6. 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 and the Linn County Public Health Department.

(IAC, 567-23.2[3j])

7. 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 and the Linn County Public Health Department.

(IAC, 567-23.2[2])

105.06 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading as long as the fill is not placed in the area of the flood plain without the necessary permit as addressed in Section 160.12 of this Code of Ordinance, Flood Plain Development Permit Required, and does not contain hazardous waste. Haulers of the above described materials are not required to have a license for hauling in the City, but said materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.
105.09 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.10 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Blue Stem are hereby designated as the official “Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City. Residential recyclables not accepted by the landfill may be marketed to an outside source at the City contracted hauler’s discretion. Recyclables collected at commercial businesses under private contract may be marketed at the discretion of the hauler.

105.11 DISPOSAL OF YARD AND LANDSCAPE WASTE. Customers of the City water service may haul and dispose of yard waste which is generated at property located within the City limits at the City compost facility subject to the rules, regulations and hours of operation of said facility. Persons who are not customers of the City water service are specifically prohibited from use of the City compost facility, unless otherwise allowed by permit issued by the City Council. A violation of this ordinance is punishable as a municipal infraction.
CHAPTER 106

COLLECTION AND TRANSPORTATION OF COMMERCIAL SOLID WASTE

106.01 Definitions. For use in this chapter the following terms are defined:

1. “Bulky waste” means items too large to fit into the commercial container. Bulky waste does not include tires, hazardous substances, dead animals and batteries.

2. “Collector” means any person authorized by this chapter to gather solid waste from commercial apartments or commercial or nonprofit businesses or institutions. Under this chapter, said collectors shall contract privately with the owner of the premises served, but shall be licensed by the City for collections within the City limits.

3. “Commercial apartment” means a multiple-family dwelling containing five (5) or more separate dwelling units.

4. “Commercial container” means a bulk storage container provided by the collector or by the owner of a commercial apartment or commercial or nonprofit business or institution, and which is of a size which is reasonably adequate to contain the waste generated in one week on said premises.

5. “Commercial or nonprofit business or institution” means any structure or property not used for residential dwelling purposes and which includes churches, schools or nonprofit business establishments or institutions.

106.02 Collection Service. The collection of solid waste from commercial apartments and from commercial or nonprofit businesses or institutions within the City shall be by private contract with collectors licensed by the City.

106.03 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])

106.04 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.

106.05 FREQUENCY OF COLLECTION. All solid waste shall be collected from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.06 LOCATION OF COMMERCIAL CONTAINERS. Commercial containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner of the premises served.

106.07 COLLECTION OF BULKY WASTE. The owner of the premises served shall contact the collector to make special arrangement for collection of any object too large or too heavy to be picked up on the normal collection route.

106.08 SEPARATION OF YARD WASTE AND LANDSCAPE WASTE REQUIRED. All yard waste and landscape waste shall be separated by the owner from all other solid waste accumulated on the premises and shall be composted, burned on the premises in accordance with the provisions of Section 105.05(5) or placed in acceptable containers and set out for collection. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

106.09 COLLECTOR’S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from commercial apartments or commercial or nonprofit businesses or institutions within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector’s license shall be made to the Clerk and provide the following:

   A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

   B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

   C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.
D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector’s license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of 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:

   Bodily Injury $100,000 per person.
   $300,000 per occurrence.
   Property Damage $ 50,000.

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, 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.

106.10 TRANSPORTING BY OWNER. 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 said waste is disposed of properly in the designated sanitary disposal project. In addition, 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.
CHAPTER 107

RESOURCE RECOVERY AND DISPOSAL OF RESIDENTIAL WASTE

107.01 Definitions

1. “Aluminum cans” means disposable aluminum beverage containers.

2. “Bulky waste” means large household appliances including but not limited to stoves, refrigerators, television sets, washing machines, dryers, logs and other items of a 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.

3. “Collection bag” means a plastic watertight bag which does not exceed forty (40) pounds or thirty-three (33) gallons when full. Collection bags may only be used for refuse.

4. “Construction and demolition waste” includes but is not limited to lumber, roofing material, rubble, broken concrete, plaster, brick, conduit, pipe, wire insulation and similar materials which result from construction, demolition or the remodeling process.

5. “Curbside” means the area next to the curb or traveled portion of the roadway.

6. “Dwelling unit” means any room or group of rooms located within a building and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

7. “Glass containers” means glass bottles and jars made from clear, green or brown glass. Expressly excluded from this definition are window glass and other non-container glass, porcelain and ceramic products.

8. “Hauler” means the person contracting with the City to collect, convey and dispose of refuse, yard waste and landscape waste, and recyclables from residential premises. Said hauler shall provide proof of insurance as required under contract and shall be compensated as stated in the contract.

10. "Newspaper" means non-glossy paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions and containing advertisements and other matters of public interest. Soiled newspapers are excluded.

11. "Recyclables" means designated consumer wastes which are collected and marketed for resource recovery, including newspaper, tin and steel cans, aluminum cans, glass containers and plastic containers.

12. "Recycling container" means the rigid plastic container provided to each dwelling unit for the express purpose of collection, commingling and disposal of recyclables.

13. "Refuse" means, for the purpose of this chapter, putrescible and non-putrescible waste, including garbage, rubbish, ashes, incinerator residues, certain plastics, magazines and similar items produced or generated within dwelling units. Recyclables are treated as refuse if not properly disposed of as set forth in Section 107.05 of this chapter. Refuse excludes household generated hazardous waste and yard waste and landscape waste.

14. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

15. "Residential solid waste" consists of refuse, recyclables, yard waste and landscape waste and bulky waste.

16. "Rigid container" means a closed, waterproof container not exceeding thirty-three (33) gallons or forty (40) pounds in capacity, of a type originally manufactured for the storage of residential waste, with tapered sides for easy emptying. Rigid containers may be used only for refuse OR for yard and landscape waste.

17. "Tag" means the tag designated by the City which is placed on the collection bag, rigid container or brush to indicate the fee has been paid for collection of refuse or yard waste and landscape waste.

18. "Tin or steel can" means a clean container of tin, coated iron or steel in which food or beverages were preserved.

107.02 COLLECTION SERVICE. The City shall provide by contract with a hauler for the collection of all refuse and recyclables from residential premises within the City.

107.03 COMPLIANCE REQUIRED. All persons residing in residential premises within the City shall dispose of refuse, yard waste and landscape waste and bulky waste in compliance with the provisions of this chapter. All residential solid waste shall be prepared for disposal or disposed of as set forth in this chapter. The hauler may refuse to collect any improperly prepared or disposed of material. Nothing herein is to be construed so as to prevent the owner from transporting solid waste generated on the premises owned or used by such owner,
provided said waste is disposed of properly in the designated sanitary disposal project. However, the basic charge for the collection service will regularly be added to the water/sewer billing for said owner’s building whether or not the owner chooses to take advantage of the service provided.

107.04 REFUSE.

1. Refuse shall be drained of liquid and placed within an approved collection bag or rigid container.

2. A tag shall be properly attached to each collection bag or rigid container placed at the curbside for collection, the exception being that each dwelling unit is allowed one non-tagged bag or rigid container per week, provided the collection bag or rigid container is of the size and weight, including contents, allowed under this chapter.

3. Collection bags and rigid containers shall be placed at the curbside for collection and disposal no sooner than twelve (12) hours prior to the next scheduled collection date.

107.05 RECYCLABLES.

1. The owner of each dwelling unit shall provide an appropriate container for recyclables.

2. Recyclables may be commingled and must be placed in the recyclable container with the lid firmly affixed, if possible. The recycling container shall be placed at the curbside for collection no sooner than twelve (12) hours prior to the next scheduled collection date.

3. Only items designated as recyclables shall be included and placed within the recycling container.

4. The owner of each dwelling unit is responsible for the security and condition of the recycling container. Lost, stolen or destroyed recycling containers shall be replaced at the expense of the owner of the dwelling unit. Arrangements and/or payments for replacement containers shall be handled directly through the hauler. Recycling containers that are destroyed by the hauler shall be replaced at the hauler’s expense.

107.06 RESERVED.

107.07 RESERVED.

107.08 BULKY WASTE. The collection and disposal of bulky waste shall be by separate and independent arrangement between the hauler and the owner of said waste. Billing, payment
and collection of fees for disposal of bulky waste shall be by agreement between the hauler and the owner of the waste.

107.09 COLLECTION SCHEDULE.

1. Refuse shall be prepared as set forth in the above sections and collected weekly by the hauler.

2. The hauler is responsible for scheduling the exact hours and day during the week that the collection and disposal of residential solid waste will be done. The household shall be provided a schedule by the hauler and shall be kept informed of any planned variation in the schedule by the hauler.

3. Recyclables shall be collected on the same day as refuse.

107.10 SCAVENGING PROHIBITED. From the time of placement of the recycling container, rigid container or collection bag at the curbside, the contents thereof become the property of the City. The contents shall be collected only by the hauler, and after collection the contents become the property of the hauler.

107.11 FEES AND BILLING PROCEDURES.

1. Fees. The fee per dwelling unit for the weekly curbside collection of recyclables and the weekly curbside collection of non-recyclables (garbage), to include one 40-pound bag or the contents of a garbage can weighing no more than 40 pounds and an unlimited amount of recyclables, shall be set at $12.97 per month. The fee per dwelling unit for administration shall be set at $2.50 per billing period.

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment for water service as contained in Section 92.04 of this Code of Ordinances, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of delinquent fees for these services. At no time will a partial payment be accepted on this joint billing.

3. Tags. Tags must be purchased for pick up of any garbage over and above the 40-pound limit. Tags may be purchased directly from the hauler or from any participating merchant. The hauler will supply the tags to the participating merchants and shall collect the proceeds therefrom. The cost of the tags shall be set at $1.00 per tag.

107.12 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.
(Code of Iowa, Sec. 384.84)
CHAPTER 108

ELECTRIC FRANCHISE

INTERSTATE POWER AND LIGHT COMPANY

108.01 Franchise Granted

108.02 Placement not to Interfere

108.03 Excavations

108.04 Existing Facilities

108.05 Tree Maintenance

108.06 Service Provided

108.07 Franchise Non-Exclusive

108.08 Service Continuous

108.09 Franchise Fee

108.10 Reserved

108.11 Reserved

108.12 Reserved

108.13 Reserved

108.14 Reserved

108.15 Reserved

108.16 Reserved

108.17 Reserved

108.18 Reserved

108.19 Reserved

108.20 No Other Fee for Use

108.21 No Right-of-Way Fee

108.22 Term

108.23 Expense of Publication

108.24 Conditioned Upon Acceptance

108.25 Severability

108.26 Entire Agreement

108.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

108.02 PLACEMENT NOT TO INTERFERE. The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor 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 said Company, its successors and assigns shall hold the City free
and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**108.03 EXCAVATIONS.** In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the 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. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

**108.04 EXISTING FACILITIES.** The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may 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 thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company’s facilities as part of its relocation request.

Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

**108.05 TREE MAINTENANCE.** The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall performed in accordance with Company’s then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

**108.06 SERVICE PROVIDED.** During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and
the Company’s tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

108.07 FRANCHISE NON-EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

108.08 SERVICE CONTINUOUS. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company’s equipment, and in such event service shall be resumed as quickly as is reasonably possible.

108.09 FRANCHISE FEE. There is hereby imposed a franchise fee of three percent (3%) upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City’s imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

108.10 RESERVED.

108.11 RESERVED.

108.12 RESERVED.

108.13 RESERVED.

108.14 RESERVED.

108.15 RESERVED.

108.16 RESERVED.

108.17 RESERVED.

108.18 RESERVED.

108.19 RESERVED.

108.20 NO OTHER FEE FOR USE. The franchise fee shall be in lieu of any other payments to the City for the Company’s use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires,
conduits and other appliances for the distribution of electric current along, under and upon
the streets, alleys and public places in the said City to supply individuals, corporations,
communities, and municipalities both inside and outside of said City with electric light, heat
and power shall be exempt from any special tax, assessment, license or rental charge during
the entire term of this Ordinance.

108.21 NO RIGHT OF WAY MANAGEMENT FEE. The City shall not, pursuant to Chapter 480A.6
of the Code of Iowa, impose or charge right-of-way management fees upon the Company or
fees for permits for Company construction, maintenance, repairs, excavation, pavement
cutting or inspections of Company work sites and projects or related matters.

108.22 TERM. The term of the franchise granted by this Ordinance and the rights granted
thereunder shall continue for the period of twenty-five (25) years from and after its acceptance
by the said Company, as herein provided.

108.23 EXPENSE OF PUBLICATION. The expense of the publication of this Ordinance shall be
paid by the Company.

108.24 CONDITIONED UPON ACCEPTANCE. The franchise granted by this Ordinance shall be
conditioned upon acceptance by the Company in writing. The acceptance shall be filed with
the City Clerk within ninety (90) days from passage of this Ordinance.

108.25 SEVERABILITY. If any section or provision of this ordinance is held invalid by a court of
competent jurisdiction, such holding shall not affect the validity of any other provisions of this
ordinance which can be given effect without the invalid portion or portions and to this end
each section and provision of this ordinance is severable.

108.26 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 written approval and acceptance
of the Company. Notwithstanding the foregoing, in no event shall the City enact any Ordinance
or place any limitations, either operationally or through the assessment of fees other than
those approved and accepted by the Company within this Ordinance, that create additional
burdens upon the Company, or which delay utility operations.
CHAPTER 109
ELECTRIC FRANCHISE

ITC Midwest

109.01 Franchise Granted
109.02 Indemnification
109.03 Relocation
109.04 Modern System
109.05 Pruning
109.06 Continuous Service
109.07 Non-Exclusivity
109.08 Undergrounding
109.09 Severability
109.10 Term of Agreement
109.11 Publication Expenses
109.12 Repeal of Conflicting Ordinances
109.13 Acceptance
109.14 Future Developments
109.15 Closing

An Ordinance granting to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company"), the right and franchise to acquire, construct, erect, maintain and operate in the City of CENTER POINT, LINN County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City of CENTER POINT, LINN County, Iowa; granting the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of CENTER POINT, LINN County, Iowa, for the period of twenty-five (25) years; and granting the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of CENTER POINT, LINN County, Iowa:

109.01 FRANCHISE GRANTED. There is hereby granted to the Company the right and franchise to acquire, construct, erect, maintain and operate in the City of CENTER POINT, LINN County, Iowa, a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "Facilities") along, under and upon the streets, avenues, alleys and public places in the City of CENTER POINT, LINN County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City of CENTER POINT, LINN County, Iowa, for the period of twenty-five (25) years; and also the right of eminent domain as provided in Section 3642 of the Code of Iowa. City agrees to not permit or grant approval for any development or construction that would result in the Company's facilities violating the National Electric Safety Code, as it exists at the time of the permit or approval.
109.02 INDEMNIFICATION. The Facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, alleys, and public places in the City nor 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 erection or maintenance of the transmission system.

109.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its Facilities in, on, over or under any public street or alley in the City of CENTER POINT 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 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, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its Facilities. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternate location for the Company’s Facilities. 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 until the reasonable cost of relocating the same are paid to the Company.

109.04 MODERN SYSTEM. The system authorized by this Ordinance shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

109.05 PRUNING. To promote public safety in proximity to its Facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

109.06 CONTINUOUS SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company’s equipment, and in such event service shall be resumed as quickly as is reasonably possible.

109.07 NON-EXCLUSIVITY. The franchise granted by this Ordinance shall not be exclusive.
109.08 UNDERGROUNDING. The City may request estimates for the undergrounding of replacement lines, upgrades or new lines, including lines to be adjusted for road moves or for other specific projects. When requested, the Company will provide to the City two estimates: 1) An estimate for the cost of the project with overhead construction and 2) An estimate for the cost of the project with underground construction. The City will have no more than 60 days from the estimate date to determine if it wants the line built overhead or placed underground. If the City chooses underground construction for the project, the City will be responsible for the incremental cost of undergrounding, defined as the differential between the estimate for underground construction and the estimate for overhead construction. Upon receipt of the City's payment for the incremental cost of undergrounding, the Company will install the underground facilities. The Company reserves the right to bill City for the amount that the incremental cost associated with installation exceeds its estimate. The City reserves the right to a refund of overpayment if the incremental costs are less than the amount billed in the estimate. If the City wishes to have a line not scheduled for replacement or upgrade placed underground, the City shall contact the Company to make such a request. The City shall cover all costs related to this work. If undergrounding of transmission lines requires entities interconnecting with the Company to make adjustments to their electrical systems, the City bears the responsibility of communication with those entities and, if it chooses, the cost of converting their facilities from overhead to underground. The Company reserves the right to review all of the City's communications with the affected entities.

109.09 SEVERABILITY. If any section, provision, or part of this Ordinance shall be adjudged to be 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.

109.10 TERM OF AGREEMENT. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, as herein provided. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

109.11 PUBLICATION EXPENSES. The expense of the publication of this Ordinance shall be paid by the Company.

109.12 REPEAL OF CONFLICTING ORDINANCES. All ordinances, or parts of ordinances, insofar as they are in direct conflict herewith, are hereby repealed.
109.13 ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from the passage of this Ordinance.

109.14 FUTURE DEVELOPMENTS. The City agrees it will not permit any real estate developments or land uses in the City that would cause the Company’s Facilities to violate the setback or safety requirements of the National Electric Safety Code or any law, regulation or ordinance of the State of Iowa, LINN County or the City.

109.15 CLOSING. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of CENTER POINT with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal any prior electric system ordinance between the Company and the City as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, 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.
CHAPTER 110

NATURAL GAS FRANCHISE

INTERSTATE POWER AND LIGHT COMPANY

110.01 Franchise Granted

110.02 Mains and Pipes

110.03 Excavations

110.04 Existing Facilities

110.05 Service Provided

110.06 Franchise Fee

110.07 Reserved

110.08 Reserved

110.09 Reserved

110.10 Reserved

110.11 Reserved

110.12 Reserved

110.13 Reserved

110.14 Reserved

110.15 Reserved

110.16 Reserved

110.17 Reserved

110.18 No Other Fees Permitted

110.19 Term

110.20 Expense of Publication

110.21 Condition of Acceptance

110.22 Severability

110.23 Entire Agreement

110.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

110.02 MAINS AND PIPES. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in said City nor 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, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.
110.03 EXCAVATIONS. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the 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. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

110.04 EXISTING FACILITIES. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may 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 thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company’s facilities as part of its relocation request.

Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has natural gas facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

110.05 SERVICE PROVIDED. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 FRANCHISE FEE. There is hereby imposed a franchise fee of three percent (3%) upon the gross revenue generated from sales of electricity by the Company within the corporate
limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board.

The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter.

The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.07 RESERVED.

110.08 RESERVED.

110.09 RESERVED.

110.10 RESERVED.

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110.12 RESERVED.

110.13 RESERVED.

110.14 RESERVED.

110.15 RESERVED

110.16 RESERVED.

110.17 RESERVED.

110.18 NO OTHER FEES PERMITTED. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

110.19 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

110.20 EXPENSE OF PUBLICATION. The expense of the publication of this Ordinance shall be paid by the Company.
110.21 CONDITION OF ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this ordinance.

110.22 SEVERABILITY. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable.

110.23 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. Notwithstanding the foregoing, 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 which delay utility operations.
CHAPTER 111

ELECTRIC FRANCHISE

111.01  Franchise Granted
111.13  Annexation
111.14  Indemnification
111.02  Placement Not To Interfere
111.15  Franchise Fee Remitted
111.16  Notice
111.17  Responsibility For Use
111.03  Excavations
111.18  Refund of Fee
111.19  Termination of Collection
111.04  Existing Facilities
111.20  No Other Fee For Use
111.05  Tree Maintenance
111.21  No Right of Way Management Fee
111.06  Service Provided
111.22  Term
111.07  Franchise Non-exclusive
111.18  Refund of Fee
111.19  Termination of Collection
111.08  Service Continuous
111.20  No Other Fee For Use
111.09  Franchise Fee Billing
111.21  No Right of Way Management Fee
111.10  Franchise Fee Shown Separately
111.22  Term
111.11  Franchise Fee Collection
111.23  Expense of Publication
111.12  Franchise Fee Administration Cost
111.24  Conditioned Upon Acceptance
111.13  Annexation
111.14  Indemnification
111.15  Franchise Fee Remitted
111.16  Notice
111.17  Responsibility For Use
111.18  Refund of Fee
111.19  Termination of Collection
111.20  No Other Fee For Use
111.21  No Right of Way Management Fee
111.22  Term
111.23  Expense of Publication
111.24  Conditioned Upon Acceptance
111.25  Entire Agreement

111.01 FRANCHISE GRANTED. There is hereby granted to LINN COUNTY RURAL ELECTRIC COOPERATIVE ASSOCIATION, hereinafter referred to as the "Company", its electrical energy suppliers as necessary to provide Company distribution at 25,000 Volts or less, its successors and assigns, the right and franchise to construct, reconstruct, repair, maintain and operate in the City of Center Point, Linn County, Iowa, systems for the distribution of electric power, and the right to construct, reconstruct, repair, maintain and operate the necessary poles, lines, wires, conduits and other appurtenances for the distribution of electric power and energy along, under and upon the streets, avenues, alleys and public ways in the City of Center Point, Linn County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public ways, distribution lines through the said City of Center Point, Linn County, Iowa to supply individuals, corporations, communities and municipalities both inside and outside of said City with electric light and power appurtenances for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 PLACEMENT NOT TO INTERFERE. The poles, lines, wires, circuits, and other appurtenances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor 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 said Company, its successors and assigns shall hold the
City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 EXCAVATIONS.** In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the 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. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

**111.04 EXISTING FACILITIES.** The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may 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 thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

**111.05 TREE MAINTENANCE.** The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

**111.06 SERVICE PROVIDED.** During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and
the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

111.07 FRANCHISE NON-EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

111.08 SERVICE CONTINUOUS. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 FRANCHISE FEE BILLING. In its monthly billing the Company shall include a franchise fee of 3% on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

111.10 FRANCHISE FEE SHOWN SEPARATELY. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

111.11 FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list.

111.12 FRANCHISE FEE ADMINISTRATION COST. The City recognizes that the costs of franchise fee administration are not charged directly to the City and the City and Company agree that the Company may only charge such administrative fees as are provided for in state statute.

111.13 ANNEXATION. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee.

The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.
111.14 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

111.15 FRANCHISE FEE REMITTED. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

111.16 NOTICE. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 9 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the city council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

111.17 RESPONSIBILITY FOR USE. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

111.18 REFUND OF FEE. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111.19 TERMINATION OF COLLECTION. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term. A. The obligation to collect and remit the fee imposed by this Ordinance is modified if:

1. Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this Ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to
consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

3. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, *Final Franchise Fee Action*) that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this Ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this Ordinance is repealed, effective as of the date specified below with no liability therefor, if:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise Fee unlawful, effective as of the date lawfully specified by the General Assembly; or

3. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

111.20 NO OTHER FEE FOR USE. The franchise fee shall be in lieu of any other payments to the City for the Company’s use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appurtenances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this Ordinance.

111.21 NO RIGHT OF WAY MANGEMENT FEE. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or
fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.22 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

111.23 EXPENSE OF PUBLICATION. The expense of the publication of this Ordinance shall be paid by the Company.

111.24 CONDITIONED UPON ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

111.25 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 written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any Ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations.
CHAPTER 112

TELEPHONE FRANCHISE

112.01   Franchise Granted

112.02   Franchise Term

112.03   Compliance with Laws, Regulations, and Ordinances

112.04   Liability and Indemnification

112.05   System Construction, Maintenance and Procedures

112.06   Approval of Transfer

112.07   Additional Regulations

112.08   Penalties

112.09   Employment Requirement

112.10   Arbitration

112.01   FRANCHISE GRANTED. The ordinance codified in this chapter,† which grants to U.S. West, a corporation licensed to do business in the State of Iowa, and its lawful successors in interest (hereinafter referred to as the “Company”) a nonexclusive right to construct, operate and maintain a general telephone system in the City, was passed and adopted by the Council pursuant to a public election. The election was held after public notice was given and said election afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the Company. The City, therefore, hereby grants to the Company the following:

1. A nonexclusive franchise to operate in the City a general telephone system.

2. The right and duty to construct, modify and maintain all structures necessary for the operation of said general telephone system.

3. The right so granted in subsection 2 includes the right to use and occupy all property now owned or later acquired by the City. This right includes, but is not limited to, the right to use and occupy City streets, alleys, public ways and public places. The Company’s exercise of the rights granted in this subsection is subject to the provisions of Section 112.05(8) of this chapter.

112.02   FRANCHISE TERM. The franchise granted the Company herein shall terminate twenty-five (25) years from the date of grant. The Company shall notify the City at least one year prior to the expiration of its franchise as to whether or not the Company intends to seek a franchise renewal and the City shall give the Company similar notice as to whether it intends to grant a franchise renewal to the Company. If it is mutually agreed between the City and Council to pursue a franchise renewal, the Council shall follow all procedures of law effective

† EDITOR’S NOTE: An Ordinance adopting a telephone franchise for the City was passed and adopted on April 12, 1983.
and applicable at that time with respect to the renewal of a general telephone system franchise.

112.03 COMPLIANCE WITH LAWS, REGULATIONS AND ORDINANCES. The Company shall be subject to the lawful exercise of the City’s police power and to such other reasonable regulations as the City shall hereafter by resolution or ordinance adopt. The construction, operation and maintenance of the general telephone system by the Company shall be in full compliance with all pre-existing and hereinafter amended codes, ordinances, rules and/or regulations of the Commerce Commission of the State and any other agency of the City, State or the United States which may hereafter acquire jurisdiction of the operations of the Company.

112.04 LIABILITY AND INDEMNIFICATION. The Company shall hold harmless and indemnify the City from any and all liability, damage, cost and/or expense arising from any and all claims or causes of action for death or injury to persons, or for loss or damage to property arising out of acts of employees of the Company or involving property of the Company. Within fifteen (15) days after the presentation of any such claim or demand on the City, the City shall notify in writing the Company’s authorized representative. Failure by the City to do so, however, will not relieve the Company of its obligation to the City.

112.05 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. The Company is hereby authorized to contract with public utility companies and/or any other owner or lessee of any poles or posts located within or without the City for the necessary use of said poles or posts for the proper installation of the general telephone system and to obtain the necessary right-of-way permits from appropriate State, County and Federal officials to cross public roads under their respective jurisdictions in order to supply the general telephone system.

2. The Company shall construct the general telephone system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the general telephone system shall be performed in a safe, thorough and reliable manner.

3. All equipment erected and/or used by the Company, including but not limited to poles, wires and appurtenances, shall be located, erected and maintained so that they do not endanger or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the use of any public or private property.

4. In the event that the City should elect to alter or change the grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove and relocate any affected portion or part of the general telephone system, at its own expense.

5. The Company shall not place poles or other fixtures where the same will interfere with any gas or electric fixture, water hydrant or main.
6. The Company shall, on the request of any person holding a building moving permit issued by the City, promptly raise or lower its wires to permit the moving of said building. The Company’s expense to temporarily remove, raise or lower its wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given a minimum of 48 hours’ advance notice to facilitate such temporary wire changes.

7. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and/or public places of the City in order to prevent the branches of such trees from coming in contact with the wires and cables of the Company. All trimming shall be done with the prior approval of the Council. All trimming authorized by this chapter shall be done at the expense of the Company.

8. The Company shall construct and maintain the general telephone system in a manner resulting in minimum interference with the use of the public property affected by said construction and maintenance. The Company, at its own cost and expense, shall be responsible for restoring the construction segment to its pre-construction shape within the time period provided for by the Council.

112.06 APPROVAL OF TRANSFER. The Company shall not assign or transfer any of its rights in the general telephone system, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Council. The notice shall include full identifying particulars of the proposed transaction. The Council shall approve or disapprove of the assignment or transfer by resolution. Approval shall not be unreasonably refused. The Council shall have 60 days within which to act. If no action is taken within the 60-day period, approval is deemed given. Any successor in interest to the Company takes subject to all rights of the City provided for herein or by operation of law.

112.07 ADDITIONAL REGULATIONS. The City reserves the right to adopt, in addition to the provisions of this chapter, such additional regulations as it shall find necessary in the exercise of its police power. Said regulations shall be reasonable and not materially in conflict with the privileges granted in this chapter.

112.08 PENALTIES. In the event the Company violates any provision of this chapter or any reasonable rules and regulations established by the City pursuant hereto, and such violation continues uncured for a period of 30 days after written notice to the Company, the Company’s franchise shall terminate. Any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the 30-day period. In the event of bankruptcy or receivership of the Company, all rights herein given to the Company shall, at the option of the City, be forfeited and terminated.

112.09 EMPLOYMENT REQUIREMENT. The Company shall not refuse to hire or discharge from employment or discriminate against any person regarding compensation, terms,
conditions or privileges of employment because of sex, age, race, color, creed, handicap or national origin.

112.10  **ARBITRATION.** All disputes between the City and the Company concerning questions of fact arising under this chapter shall be decided by arbitration as follows: The City and Company shall each choose individuals to represent them, and the individuals so picked shall choose a third party, and the decision of the majority of the three persons so picked shall be final, the cost of arbitration, if any, being borne equally by the parties.
CHAPTER 113

CABLE TELEVISION FRANCHISE

AN ORDINANCE TO GRANT TO USA COMMUNICATIONS, AN IOWA CORPORATION (THE "COMPANY") AN EXTENSION OF THE NON-EXCLUSIVE RIGHT TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY LIMITS FOR AN ADDITIONAL TERM OF FIFTEEN (15) YEARS.

BE IT ORDAINED by the City Council of the City of Center Point, Iowa.

1. Renewal of Franchise. By Ordinance No. 189, adopted March 4, 1981, the City of Center Point, Iowa (hereafter "City") granted to Vantage Cable Associates, Inc. a cable television franchise. The City approved the transfer of said franchise from Vantage Cable Associates, Inc. to Galaxy Telecom, Inc. by Ordinance No. 303 adopted July 27, 1994 and the approved transfer of the franchise to Shellsburg Cablevision, Inc. by Ordinance No. 323 adopted September 25, 1996. Ordinance No. 323 also extended the term of the franchise for an additional 15 years.

The City hereby grants to the Company an extension of said Franchise for an additional period of fifteen years (15) years following the date of adoption of this Ordinance. By accepting this extension, the Company agrees that it will operate the cable television system in accordance with the laws and regulations of the United States of America and the State of Iowa and the Ordinances and regulations of the City of Center Point, Iowa.

2. Effective Date of Franchise. This Ordinance shall be in full force and effect from and after its passage and publication as required by law and after the receipt by the City Clerk of a written statement from Company which must be received within thirty (30) days of the publication of this Ordinance stating that Company unconditionally accepts the franchise extension and covenants to faithfully comply with and abide by all the provisions, terms and conditions of this Ordinance.

3. Ownership of Franchise. The Company shall not assign or transfer any right granted under this Ordinance to any other person, company or corporation without prior consent of the City Council, which consent shall not be unreasonably withheld, provided that the Company shall have the right to assign this franchise to an affiliated entity.

4. Severability Clause. Should any section, clause or provision of this Ordinance be declared invalid by a court of record, the same shall not affect the validity of the Ordinance as a whole or any part thereunder other than the part so declared invalid.

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5. Conflicting Ordinances. All Ordinances or parts thereof in conflict with the terms of this Ordinance are hereby repealed, provided, however, that such repeal shall only be to the extent of such conflict.
CHAPTER 114

RIGHTS-OF-WAY

114.01  Purpose and Rule of Interpretation
114.02  Franchise, License or Lease Required
114.03  Placement of Facilities
114.04  Regulation by the City
114.05  Construction and Excavation
114.06  City Construction and Paving
114.07  Design Notice to City
114.08  Above-ground Cables, Wires, Conduits and Poles
114.09  Assignment
114.10  Forfeiture
114.11  Application
114.12  New Technologies

114.01  PURPOSE AND RULE OF INTERPRETATION. The Council finds it is necessary for the City to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services, in order to protect public and private investment, ensure orderly use of public property and ensure the health, safety and welfare of the population, to provide for the regulation and administration of the public streets and other public property and secure the rights of the City to a return on its investment in public property. This chapter is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property.

114.02  FRANCHISE, LICENSE OR LEASE REQUIRED. No person or other entity shall use the public right of way or other public property without first obtaining a franchise, license or lease from the City. The City shall not enter into or issue any franchise, license or lease that grants exclusive rights. An application for a license or lease shall be filed with the City Clerk on a form provided by the City and shall include as a minimum the following information: the name, address and telephone number of the applicant; the name, address and telephone number of a person whom the City may notify or contact at any time concerning the license or lease; an engineering site plan showing the proposed location of the facilities including any manholes, the size, type and proposed depth of any conduit or other enclosures; and any additional information the City may require. All licenses or leases required by this section shall be granted by the City Council.

114.03  PLACEMENT OF FACILITIES. The facilities, fixtures and equipment of the distribution, transmission or sale of any utility services, or services provided under license or lease or easement, shall be placed and maintained so as not to unnecessarily or unreasonably interfere with the travel on the streets, highways, avenues, alleys, bridges and public places in the City, nor shall such facilities, fixtures and equipment interfere with the proper use of the same, including, but not limited to, ordinary drainage, or the functioning of the sewers, underground pipe or other property of the City. In the event that facilities, fixtures and equipment of any person or other entity located within a public right of way may be relocated because of paving, road construction or road reconstruction, sewer construction or sewer reconstruction, or the
construction or reconstruction of public drainage systems or similar public works or the
construction or reconstruction of the facilities of any City-owned utility, such relocation, at the
written request of the City, shall be completed by the owner of such facilities at the owner’s
cost. The City shall upon request of any person or other entity holding a franchise, license or
lease, review any plans for the construction of facilities, fixtures and equipment within the
public right of way and advise the person or other entity of any conflict such construction may
have with planned or anticipated public improvements, but failure of the City to so advise such
person or other entity will not relieve the owner of such facilities of its obligations under this
chapter. Notwithstanding the foregoing, the City Public Works Director may require
placement of equipment or facilities belonging to any holder of a franchise, license or lease be
limited to locations designated by the Public Works Director if such limitation is deemed by
the Public Works Director to be necessary to protect the integrity or use of present and future
users of the public right of way or other public property.

114.04 REGULATION BY THE CITY. The City reserves the right to make reasonable general
regulations for the use of streets and other public property which unless otherwise specifically
provided shall apply to any holder of a franchise, license or lease.

114.05 CONSTRUCTION AND EXCAVATION. A written permit will be obtained from the Clerk
whenever it becomes necessary for the holder of any franchise, license or lease to excavate in
streets or public grounds of the City. Such permits shall state a particular part or point of the
street where the excavation is to be made and the length of time in which such permit shall
authorize the work to be done. An exception to a requirement for a permit shall be made in
cases of emergency involving public safety, in which case a permit will be obtained at the
earliest opportunity after the work has started. In making excavations in the streets, the
holder of any franchise, license or lease shall proceed with such work as to cause the least
possible inconvenience to the public. The holder of any franchise, license or lease shall
properly protect, according to safety standards generally accepted at the time of placement,
as may be determined from time to time by the Public Works Director, all excavations and
obstructions by proper placement of shoring, surface plates, barricades, warning lights and
such other or additional devices as circumstances may warrant. If in the opinion of the Public
Works Director, such excavation or obstruction is not properly and safely protected, the Public
Works Director, shall notify such holder of a franchise, license or lease who shall immediately
comply with such reasonable instructions. Immediately after use, any trenches for excavations
which the holder of a franchise, license or lease has opened shall be filled. However, no trench
or excavation in the streets shall be filled or covered without giving the City the right to inspect
the same. All backfilling in streets will be according to City specifications. Temporary street
surfacing will be placed in such excavations as soon as the same has been backfilled.
Pavements, sidewalks, curbs and gutters or other portions of streets and public places opened,
disturbed or damaged shall be promptly restored and replaced with like materials at the
expense of the holder of a franchise, license or lease and left in as good condition as before
the opening, disturbance or damage occurred. In the event like replacement materials are not
available, the holder of the franchise, license or lease shall notify the City Engineer who must
approve the use of any alternate materials. In the event that the holder of a franchise, license
or lease fails to comply with the provisions of this section, after having been given reasonable notice, the City may do such works as may be needed to properly repair such pavements, sidewalks, curbs and gutters or other portions of streets and public places and the cost thereof shall be repaid to the City by the holder of the franchise, license or lease. In cases where a cut or disturbance is made in a section of street paving or sidewalks, but causes greater disturbance than to just the area cut, rather than replace only the area cut, the holder of a franchise, license or lease shall replace that area as may be ordered by the City Engineer, which in no event shall exceed the panel or panels disturbed.

114.06 CITY CONSTRUCTION AND PAVING. Whenever the City shall pave or repave any street or shall change the grade line of any street or public place or shall construct or reconstruct any conduit, water main service or water connection, sewer or other City-owned public works or City-owned utility, it shall be the duty of the holder of any franchise, license or lease, when so ordered by the City, to relocate its service lines and other property in the streets or other public places at its own expense so as to conform to the established grade or line of such street or public place and so as not to interfere with the public improvements so constructed or reconstructed. In the case of other public improvements, including but not limited to urban renewal projects, the City may require the holder of a franchise, license or lease to relocate its poles, service lines and appurtenances in the streets at the owner's expense. The City may at its discretion assign personnel for inspection of excavation and related work being performed by the holder of a franchise, license or lease. Should the holder of the franchise, license or lease fail or refuse to do and perform the things provided in this section, the City may, after reasonable notice, perform the work and charge the expense thereof to the holder of the franchise, license or lease and the holder of the franchise, license or lease shall promptly pay said charges.

114.07 DESIGN NOTICE TO CITY. The holder of a franchise, license or lease shall promptly, upon request, furnish the Public Works Director a detailed map or maps of its distribution system both within the City limits and the area within two miles surrounding the City unless that area is within another city. The holder of a franchise, license or lease shall thereafter update the map or maps at least annually or upon request, showing all subsequent additions or deletions to the distribution system. Prior to any excavation by the City or its agents, a representative must contact the holder of any franchise, license or lease regarding current information on the location of underground lines or facilities in the area concerned. The obligation to contact the holder of a franchise, license or lease under this section shall be satisfied if contact is made with a corporation organized pursuant to Chapter 480 of the Code of Iowa or an entity with a similar function utilized by both the City and the company, currently the Iowa One-Call System.

114.08 ABOVE-GROUND CABLES, WIRES, CONDUITS AND POLES. All cables, wires and conduits shall be placed underground except where above-ground connection to buildings or other locations above ground is reasonably necessary. Such above-ground connection shall be by means of poles located, as far as reasonably practical, within alleys. No such poles shall
be installed or erected until the Council has approved the proposed location, construction and pole heights.

114.09 **ASSIGNMENT.** No sale or assignment of any franchise, license or lease of the use of the public right of way or other public property shall be effective until it is approved by the Council and until the holder thereof has filed in the office of the Clerk written notice of the proposed sale, transfer, disposition assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Such approval by the City shall not be unreasonably withheld. The proposed vendee, assignee or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting the terms of the franchise, license or lease and agreeing to perform all of the conditions thereof.

114.10 **FORFEITURE.** The violation of any material portion of a franchise, license or lease by the holder thereof or its successors or assigns, or its failure promptly to perform any of the provisions of this chapter shall be cause for forfeiture of said franchise, license or lease and the termination of all rights thereunder. Such forfeiture shall be accomplished by resolution of the Council after written notice to the holder thereof and a continuation of the violation, failure or default specified on the notice for at least thirty (30) days from the date the notice was served.

114.11 **APPLICATION.** This chapter shall apply to all franchises, licenses or leases and easements granted by the City, including all existing franchises, licenses or leases and easements.

114.12 **NEW TECHNOLOGIES.** Should, within the term of any franchise, license or lease, developments within the filed for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license or lease may petition the Council which, with such requirements or limitation as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the franchise, license or lease.
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CHAPTER 115  
CEMETERIES

115.01 Establishment  
The existing cemetery grounds owned by the City, presently known as Center Point Cemetery and any additions thereto, and the Center Point Memorial Cemetery and any additions thereto, are hereby established as municipal cemeteries under the provisions of Chapter 523I of the Code of Iowa and which shall be operated under the provisions of Chapter 523I of the Code of Iowa and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 Duties of Superintendent  
A representative of the Public Works Department will handle the duties of the cemetery superintendent and is responsible for the maintenance of the cemetery buildings, grounds and equipment and shall make an annual report of the cemetery operation to the Council at budget time.

115.03 Cemetery Charges  
The Council may set from time to time, by resolution, charges for burial permits or other services.

115.04 Sale of Lots.

1. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the Code of Iowa. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

2. Any unoccupied lot will be presumed abandoned under the conditions set out in State law for reversion, and the City may sell such reverted lot, the proceeds from which shall be deposited in the Perpetual Care Fund to provide for the care of any occupied area of the reverted property or if there is no occupied portion, the proceeds from the sale...
portion may be invested, and the interest thereon be used wherever deemed useful for the care of the cemeteries.

    a. The City reserves and shall have the right to correct any errors that may be made in making either interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the City or in the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves the right to remove and transfer such remains to such other property of equal value and location as far as reasonably possible.

115.05 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the Code of Iowa.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.06 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
   a. The name and last known address of each owner or previous owner of interment rights.
   b. The date of each purchase or transfer of interment rights.
   c. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.
   a. The date the remains are interred.
   b. The name, date of birth and date of death of the decedent interred, if these facts can be conveniently obtained.
c. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.07 LIABILITY. The City shall take reasonable precautions to protect plot owners and the property rights of plot owners within the cemeteries from loss or damage, but it expressly shall not be liable for loss or damage beyond its control, and particularly from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable disorder, whether the damage be direct or consequential.

115.08 PLATTING.

1. It is hereby made the duty of the Council to provide for the surveying, platting, grading, fencing, ornamentation and improvement of all the cemetery grounds and the avenues leading thereto, from time to time, as in the opinion of the Council may be necessary and advisable.

2. The Clerk shall cause to be recorded in the office of the County Recorder new or corrected plats showing new thoroughfares and places, if any have been laid out, each year on or before July 1 for the previous year.

3. Before any new block of a City-owned cemetery is opened for sale of lots, the Council shall cause it to be platted and recorded in the office of the County Recorder. One or more copies of the plat map shall be deposited with the Clerk. The plat shall be so designed as to provide direct access to each lot from either a road or walkway or foot path.

115.09 PENALTIES. Any person who violates this chapter or fails to comply with any of its requirements shall be in violation of this Code of Ordinances. Violation of provisions of this chapter or failure to comply with any of its requirements shall constitute a simple misdemeanor. The City may take any lawful action as is necessary to prevent or remedy any violation. Accordingly, violation of this chapter shall also be considered a municipal infraction as provided under Chapter 3 of this Code of Ordinances unless defined as a felony or misdemeanor under State law.

115.10 RULES AND REGULATIONS. The Rules and Regulations of the Center Point Cemetery and the Center Point Cemetery shall be adopted, and may be amended from time to time, by resolution of the Council and shall cover the ours of opening and closing, the use of roads within the cemetery, the hours for burial, the decorating of graves, the fees for services rendered in connection with interments or the placing of markers and the cost of lots or payments for perpetual care as deemed necessary.

115.11 TRESPASSING OR VANDALISM IN CEMETERY. Any person who trespasses upon any cemetery under the jurisdiction of the City by destroying, injuring or defacing any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to the cemetery is guilty of a misdemeanor and liable for any and all damage.

(Code of Iowa, Sec. 716.1)
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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01  License or Permit Required

No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02  General Prohibition

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03  Investigation

Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04  Action by Council

The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05  Prohibited Sales and Acts

A person or club holding a liquor license or retail wine or beer permit and the person’s or club’s agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.
2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, 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.

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee’s place of business.

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages
Chapter 120

Liquor Licenses and Wine and Beer Permits

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2l])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 Amusement Devices.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.
CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions

121.02 Permit Required

121.03 Application

121.04 Fees

121.05 Issuance and Expiration

121.06 Refunds

121.07 Persons Under Legal Age

121.08 Self-service Sales Prohibited

121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.

6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for
chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

   (Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

   (Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

   (Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

   (Code of Iowa, Sec. 453A.13 & 453A.47A)

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<thead>
<tr>
<th>FOR PERMITS GRANTED DURING:</th>
<th>FEE:</th>
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<tbody>
<tr>
<td>July, August or September</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>October, November or December</td>
<td>$ 56.25</td>
</tr>
<tr>
<td>January, February or March</td>
<td>$ 37.50</td>
</tr>
<tr>
<td>April, May or June</td>
<td>$ 18.75</td>
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</tbody>
</table>
121.05  ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be non-assignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06  REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07  PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer’s permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer’s permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer’s permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four (4) years, the retailer’s permit shall be revoked.

The Clerk shall give ten (10) days’ written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])
121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)
CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.10 Time Restriction
122.02 Definitions
122.11 Revocation of License
122.03 License Required
122.12 Notice
122.04 Application for License
122.13 Hearing
122.05 License Fees
122.14 Record and Determination
122.06 Bond Required
122.15 Effect of Revocation
122.07 License Issued
122.16 Rebates
122.08 Display of License
122.17 License Exemptions
122.09 License Not Transferable
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle 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 Council approval and a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. A written application for a license under this chapter shall be filed with the Clerk thirty days in advance. 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.

**122.05 LICENSE FEES.** The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. A fee for the principal or agent of the persons actually soliciting of $150.00 per year.

2. Peddlers or Transient Merchants.
   
   A. For one day................................................ $ 10.00
   
   B. For one week............................................. $ 25.00
   
   C. For up to six (6) months ............................ $ 50.00
   
   D. For one year or major part thereof........... $ 150.00

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If Council approval is given and 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 be restricted to the hours set by Council at the time the permit is approved.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the Council 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 Council 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 Council may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Council 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 Council finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars ($5.00) of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Center Point/Urbana School District conducting projects sponsored by organizations recognized by the school.
5.  Route Sales.  Route delivery persons who only incidentally solicit additional business or make special sales.

6.  Resale or Institutional Use.  Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS.  Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05.  All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof.  If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant.  In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council.

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# CHAPTER 123

## HOUSE MOVERS

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### 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 Public Works Director and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

### 123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of 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 ten dollars ($10.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder’s bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 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.
CHAPTER 124

SEXUALLY ORIENTED BUSINESSES

124.01 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 chapter to condone or legitimize the distribution of obscene materials.

124.02 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
CHAPTER 124  SEXUALLY ORIENTED BUSINESSES

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 Sheriff’s Department and such employees of the Sheriff’s Department as the Sheriff 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.

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12. “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.

13. “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.

14. “Permittee and/or licensee” means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

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 originally licensed 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.

124.03 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. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted.

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 CENTER POINT, 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.

124.04 PERMIT AND/OR LICENSE REQUIRED.

1. It is unlawful for a person to operate a sexually oriented business without a valid permit and/or license issued by the Director.

2. An application for a permit and/or license 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, the person must sign the application for a permit and/or license 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 and/or license 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 and/or license 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 and/or license.

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.

124.05 ISSUANCE OF PERMIT AND/OR LICENSE.

1. The Director shall approve the issuance of a permit and/or license 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 and/or license 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 and/or license by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license 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 and/or license 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 and/or license, 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 and/or license 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.

124.06 FEES. The annual fee for a sexually oriented business permit and/or license 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.

124.07 INSPECTION. An applicant or permittee and/or licensee shall permit representatives of the Sheriff’s 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.

124.08 EXPIRATION OF PERMIT AND/OR LICENSE.

1. Each permit and/or license 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 and/or license will not be affected.

2. When the Director denies renewal of a license, the applicant shall not be issued a permit and/or license 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 and/or license has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days has elapsed since the date the denial became final.

124.09 SUSPENSION. The Director shall suspend a permit and/or license for a period not to exceed thirty (30) days if it is determined that the permittee and/or licensee or an employee of a permittee and/or licensee 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;


124.10 REVOCATION.

1. The Director shall revoke a permit and/or license if a cause of suspension in Section 124.09 occurs and the permit and/or license has been suspended within the preceding twelve (12) months.

2. The Director shall also revoke a permit and/or license if it is determined that:
   A. A permittee and/or licensee gave false or misleading information in the material submitted during the application process.
   B. A permittee and/or licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.
   C. A permittee and/or licensee or an employee has knowingly allowed prostitution on the premises.
   D. A permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee’s and/or licensee’s permit and/or license was suspended.
   E. A permittee and/or licensee 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 permitted and/or licensed premises.
   F. A permittee and/or licensee is delinquent in the payment to the City or State for any taxes or fees past due.
   G. The owner or operator of the permitted 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 and/or license, the revocation shall continue for one year, and the permittee and/or licensee shall not be issued a sexually oriented business permit and/or license 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.
CHAPTER 124
SEXUALLY ORIENTED BUSINESSES

and/or license if at least ninety (90) days has elapsed since the date the revocation became effective.

124.11 TRANSFER OF PERMIT AND/OR LICENSE. A permittee and/or licensee shall not transfer the permit and/or license to another, nor shall a permittee and/or licensee operate a sexually oriented business under the authority of a permit and/or license at any place other than the address designated in the application.

124.12 LOCATION RESTRICTIONS. Sexually oriented business shall be permitted in any C-3 zoned commercial district, provided that:

1. The sexually oriented business may not be operated within 1,000 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.

124.13 NONCONFORMING USES.

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the locational or structural configuration requirements of 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 and/or license, 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/or license and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

124.14 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 and/or license, 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.

124.15 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 and/or license, 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.
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.

124.17 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.

124.18 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.

124.19 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.

124.20 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.
124.21 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.

124.22 ZONING. No sexually oriented business licensed under this chapter shall be located or operated in any zoning classification other than C-2.

124.23 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED. The licensee of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer on the premises licensed under this chapter. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business licensed under this chapter.

124.24 INJUNCTION. A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.
CHAPTER 125

LICENSING OF PLUMBERS

125.01 Title and Purpose
125.02 Licensing Required
125.03 Violations

125.01 TITLE AND PURPOSE. This chapter shall be known as the City of Center Point, Iowa, Plumbing Contractors, Journeyman Plumbers and Pipe Layers Licensing Code. The purpose of this chapter is to provide for the licensing and insuring of plumbing contractors, journeymen and pipe layers in order to protect public health, safety and welfare.

125.02 LICENSING REQUIRED. No person who has been required to obtain a permit to do plumbing work from the building Official according to the provisions of the Center Point Plumbing Code shall install, alter, and add to, repair, relocate, replace, or maintain any plumbing system within the City unless such person meets the requirements of licensing rules as established by the Iowa Department of Public Health, Plumbing and Mechanical Systems Examining Board.

125.03 VIOLATIONS. Violations of this chapter shall be punished as provided in Section 1.14 of the Code of Ordinances or may be cited as a municipal infraction under Chapter 3 of the Code of Ordinances.
CHAPTER 126

LICENSING OF MECHANICAL CONTRACTORS

126.01 TITLE AND PURPOSE. This chapter shall be known as the City of Center Point, Iowa, Mechanical Heating/Cooling Licensing Code. The purpose of this chapter is to provide for the licensing and insuring of heating/cooling apprentices, journeymen/ installers and contractors in order to protect public health, safety and welfare.

126.02 LICENSING REQUIRED. No person who has been required to obtain a permit to do work on any mechanical system from the Building Official according to the provisions of the Center Point Building Code shall install, alter, and add to, repair, relocate, replace, or maintain any mechanical system within the City unless such person meets the requirements of licensing rules as established by the Iowa Department of Public Health, Plumbing and Mechanical Systems Examining Board and has obtained a permit for said mechanical work from the Building Official according to the provisions of the Center Point Building Code.

126.03 VIOLATIONS. Violations of this chapter shall be punished as provided in Section 1.14 of the Code of Ordinances or may be cited as a municipal infraction under Chapter 3 of the Code of Ordinances.
CHAPTER 127

LICENSING OF ELECTRICIANS

127.01 Title and Purpose

127.02 Licensing Required

127.03 Violations

127.01 TITLE AND PURPOSE. This chapter shall be known as the City of Center Point, Iowa, Electrician Licensing Code Licensing Code. The purpose of this chapter is to provide for the licensing and insuring of electrical apprentices, journeymen/installers and contractors in order to protect public health, safety and welfare.

127.02 LICENSING REQUIRED. No person who has been required to obtain a permit to do work on any electrical system from the Building Official according to the provisions of the Center Point Building Code shall install, alter, and add to, repair, relocate, replace, or maintain any electrical system within the City unless such person meets the requirements of licensing rules as established by the State of Iowa Electrical Examining Board and has obtained a permit for said electrical work from the Building Official according to the provisions of the Center Point Electrical Code.

127.03 VIOLATIONS. Violations of this chapter shall be punished as provided in Section 1.14 of the Code of Ordinances or may be cited as a municipal infraction under Chapter 3 of the Code of Ordinances.
CHAPTER 128

ELECTRICAL CODE

128.01 Electrical Code Adopted

128.02 Amendments to the Electrical Code

128.03 Board of Appeals

**128.01 ELECTRICAL CODE ADOPTED.** Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Electrical Code of the City that certain International Code Council Electrical Code as is adopted by the Linn County Iowa Code of Ordinances, Electrical Regulations, Chapter 6, section 6.1, including all modifications made to said Code in the Linn County Electrical Regulations, Chapter 6, section 6.2, which code is hereby specifically incorporated by reference and shall be known as the Center Point Electrical Code. The provisions of said Electrical Code shall be controlling in the erection, installation, alterations, additions, repair, relocation, replacement, maintenance or use of any electrical system within the corporate limits of the City.

**128.02 AMENDMENTS OF THE ELECTRICAL CODE.** Certain sections and portions of sections of the Linn County Electrical Regulations are hereby amended, deleted, modified or added to as set forth below: Section 6.2.7 of the Linn County Electrical Regulations is deleted and the following subsection 128.03 inserted in lieu thereof.

**128.03 BOARD OF APPEALS.** In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals, as established in City of Center Point Code of Ordinances Section 26.03. The Building Official or designated representative shall be an ex-officio member without a vote.

The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall hold a regular meeting on the fourth Tuesday of each month, unless there are no appeals or business on file for a hearing.

A nominal appeal fee to the Board of Appeals shall be paid as set forth in Table P-1 SCHEDULE OF FEES as adopted by resolution of the City Council. The appeal shall be valid for one (1) year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

The Board shall have no authority of interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.
CHAPTER 129

PLUMBING CODE

129.01 PLUMBING CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Plumbing Code of the City that certain Uniform Plumbing Code as is adopted by the Linn County Iowa Code of Ordinances, Plumbing Regulations, Chapter 5, section 5.1, including all modifications made to said Code in the Linn County Plumbing Regulations, Chapter 5, section 5.2, which code is hereby specifically incorporated by reference and shall be known as the Center Point Plumbing Code. The provisions of said Plumbing Code shall be controlling in the erection, installation, alterations, additions, repair, relocation, replacement, maintenance or use of any plumbing system within the corporate limits of the City.

129.02 AMENDMENTS OF THE PLUMBING CODE. Certain sections and portions of sections of the Linn County Plumbing Regulations are hereby amended, deleted, modified or added to as set forth below: Section 5.2.5 of the Linn County Plumbing Regulations is deleted and the following subsection 129.03 inserted in lieu thereof.

129.03 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals, as established in City of Center Point Code of Ordinances Section 26.03. The Building Official or designated representative shall be an ex-officio member without a vote.

The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall hold a regular meeting on the fourth Tuesday of each month, unless there are no appeals or business on file for a hearing.

A nominal appeal fee to the Board of Appeals shall be paid as set forth in Table P-1 SCHEDULE OF FEES as adopted by resolution of the City Council. The appeal shall be valid for one (1) year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

The Board shall have no authority of interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.
130.01  BUILDING CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Building Code of the City that certain International Building Code as is adopted by the Linn County Iowa Code of Ordinances, Construction Regulations, Chapter 3, section 3.1, including all modifications made to said Code in the Linn County Construction Regulations, Chapter 3, section 3.2, which code is hereby specifically incorporated by reference and shall be known as the Center Point Building Code. The provisions of said Building Code shall be controlling in the erection, installation, alterations, additions, repair, relocation, replacement, maintenance or use of any structure within the corporate limits of the City.

130.02  AMENDMENTS OF THE BUILDING CODE. Certain sections and portions of sections of the Linn County Building Regulations are hereby amended, deleted, modified or added to as set forth below: Section 3.2.11 of the Linn County Building Regulations is deleted and the following subsection 130.03 inserted in lieu thereof.

130.03  BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals, as established in City of Center Point Code of Ordinances Section 26.03. The Building Official or designated representative shall be an ex-officio member without a vote.

The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall hold a regular meeting on the fourth Tuesday of each month, unless there are no appeals or business on file for a hearing.

A nominal appeal fee to the Board of Appeals shall be paid as set forth in Table P-1 SCHEDULE OF FEES as adopted by resolution of the City Council. The appeal shall be valid for one (1) year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

The Board shall have no authority of interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.
CHAPTER 131

MECHANICAL CODE

131.01 Mechanical Code Adopted

131.02 Amendments to the Mechanical Code

131.03 Board of Appeals

131.01 MECHANICAL CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Mechanical Code of the City that certain International Mechanical Code as is adopted by the Linn County Iowa Code of Ordinances, Mechanical Regulations, Chapter 4, section 4.1, including all modifications made to said Code in the Linn County Mechanical Regulations, Chapter 4, section 4.2, which code is hereby specifically incorporated by reference and shall be known as the Center Point Mechanical Code. The provisions of said Mechanical Code shall be controlling in the erection, installation, alterations, additions, repair, relocation, replacement, maintenance or use of any mechanical system within the corporate limits of the City.

129.02 AMENDMENTS OF THE MECHANICAL CODE. Certain sections and portions of sections of the Linn County Mechanical Regulations are hereby amended, deleted, modified or added to as set forth below: Section 4.2.5 of the Linn County Mechanical Regulations is deleted and the following subsection 129.03 inserted in lieu thereof.

129.03 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code, there shall be and is hereby created a Board of Appeals, as established in City of Center Point Code of Ordinances Section 26.03. The Building Official or designated representative shall be an ex-officio member without a vote.

The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall hold a regular meeting on the fourth Tuesday of each month, unless there are no appeals or business on file for a hearing.

A nominal appeal fee to the Board of Appeals shall be paid as set forth in Table P-1 SCHEDULE OF FEES as adopted by resolution of the City Council. The appeal shall be valid for one (1) year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

The Board shall have no authority of interpretation of the administration of this code nor shall such board be empowered to waive requirements of this code.
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 Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
   B. A statement of the purpose, for whom and by whom the excavation is to be made;
   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be open 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. Before an excavation permit as herein provided is issued, each applicant, except public utility companies, shall deposit with the Clerk a surety bond in the amount of $5,000 payable to the City. The required surety bond must be:
   A. With good and sufficient surety;
   B. By a surety company authorized to transact business in the State;
   C. Satisfactory to the City Attorney in form and substance;
D. Conditioned upon the permittee’s compliance with this section and to secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to maintain any street where excavation is made in as good condition for the period of four years after said work shall have been done, usual wear and tear excepted, as it was in before said work shall have been done.

Any settlement of the surface within said four-year period shall be deemed prima facie evidence of defective backfilling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his or her own sidewalk shall not be required to give such bond. Recovery on such bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the City by reason of the negligence or default of the permittee, upon the City’s giving written notice to the permittee of such suit or claim, any final judgment against the City requiring it to pay for such damage shall be conclusive upon the permittee and his or her surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date. As a condition of waiver of this requirement for public utility companies and/or companies contracted by public utility companies, said utility companies shall place on file with the Clerk a blanket maintenance bond guaranteeing that the above listed requirements covered under surety bonds required from private contractors will be met by the utility for any party contracted by them to excavate on any public property.

5. Insurance Required. Prior to beginning work, any person intending to dig, excavate or in any manner disturb the City streets and/or parking within the City right-of-way, except for public utility companies excavating for installation or repair, shall file with the Clerk a certificate or certificates of insurance showing proof of current insurance coverage to protect said person and any agents of said person against any claim set forth below which may arise as a result of the operation. As a condition of waiver of this requirement for public utilities and/or companies contracted by public utilities, said companies shall place on file with the Clerk a certificate of self-insurance acknowledging the insurance requirements for allowing excavations on public property in the City and assuring self-insurance coverage for the exposures and to the limits required under the City ordinance for the utility and any party contracted by the
utility. The required limits of liability insurance may be satisfied in a single underlying or “primary” policy or in combination with “umbrella” or “excess” liability policies so long as there is sufficient coverage in aggregate to meet the required minimums. Any certificates of insurance required herein shall state that 30 days’ written notice will be given to the City before the policy is canceled or changed.

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. 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.

9. 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.

10. Exceptions. Franchised utilities with City Attorney approved blanket bond and self-insurance certificates on file with the City shall be exempt from the requirement to obtain a written permit for excavations. Said utilities shall, however, be required to notify the City office at least two working days before commencing any excavation. Said notice shall include all pertinent information required by the City.

135.10 MAINTENANCE OF PARKING OR TERRACE. It is 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 is not 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. As used herein the term “driveway culvert” means a device allowing storm water movement under/through a driveway or street as part of an open ditch storm water drainage system. All property owners having a ditch between their property and a City street and having need for a culvert or culvert repairs for public drainage purposes, as determined by the street supervisor of the City, shall be required to install or repair such culvert, as the case may be.

1. Notice to Property Owner. Notice of the need for such a culvert or culvert repairs shall be sent by certified mail to the property owner as shown by the records of the County Auditor, and shall state the time within which such action must be completed, which shall not be less than 60 days from the date said notice is mailed. Such notice shall include a list of specifications pertaining to the culvert installation or repairs.

2. Failure to Install. If, within the time specified in said notice, the culvert installation or repairs are not completed, or have not been completed according to the specifications sent to the property owner, then the City shall have the right to install or repair the culvert, or have the culvert installed or repaired by a third party, according to such specifications, and assess the costs against the property for collection in the same manner as a property tax.

3. Assessment of Costs. In the event that the City installs or repairs a culvert, the costs shall be assessed per Council resolution.

4. Installation by City. A property owner, either upon receipt of the above notice or on his or her own initiative, may request the City to install or repair such a culvert. Any culvert installation or repair done by the City at the request of the property owner shall be paid for at the time the work is completed. The City’s charge shall be computed in the manner set forth in subsection 3 above.

5. Interpretation. Nothing herein shall be interpreted as requiring the City to install or repair a culvert at the request of a property owner. Further, nothing herein shall prevent a property owner, on his or her own initiative, from installing or repairing said culvert at his or her own expense, providing that such culvert is installed or repaired according to City specifications and approved by the Public Works Director.
CHAPTER 136

SIDEWALK REGULATIONS

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. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.


6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.

7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners 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.
CHAPTER 136

SIDEWALK REGULATIONS

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 is the duty of all persons...
CHAPTER 136

SIDEWALK REGULATIONS

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 are 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 the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (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.
CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01  POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02  PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03  NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04  FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05  DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06  DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.
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.

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CHAPTER 138

STREET GRADES

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.

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CODE OF ORDINANCES, CENTER POINT, IOWA

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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 Center Point, 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.

CODE OF ORDINANCES, CENTER POINT, IOWA

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[The next page is 785]
CHAPTER 145
DANGEROUS BUILDINGS

145.01  ENFORCEMENT OFFICER. The Building Official 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 CENTER POINT, 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])

145.09 INSPECTIONS. The Housing Official, the Fire Inspector, and the Building Official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

145.10 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Building Official or any authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous, or hazardous, the Building Official or authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this chapter, provided that if such building or premises is occupied, such official shall first present proper credentials and request entry; and if such building or premises is unoccupied, the official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry

† 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.
is refused, the Building Official or authorized representative shall have recourse to every remedy provided by law to secure entry. When the Building Official or authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this chapter.
CHAPTER 146

MOBILE HOME PARKS

146.01 Purpose
146.02 Definitions
146.03 Limitations on Uses
146.04 Mobile Home Park Development Plan
146.05 Area
146.06 Yards, Mobile Home Lot
146.07 Required Separation Between Mobile Homes, Accessory Uses, and Appurtenances
146.08 Park Perimeter General Area Requirements
146.09 Soil and Ground Cover Requirements
146.10 Site Drainage Requirements
146.11 Lot Markers
146.12 Park Areas for Accessory Uses
146.13 Required Recreation Areas
146.14 Park Street Systems
146.15 Required Parking Area
146.16 Walks
146.17 Mobile Home Stands
146.18 Water Supply
146.19 Water Distribution System
146.20 Individual Water Riser Pipes and Connections
146.21 Sewage Disposal
146.22 Sewer Lines
146.23 Individual Sewer Connections
146.24 Electrical Distribution System
146.25 Main Electrical Power Distribution Lines
146.26 Individual Electrical Connections
146.27 Required Grounding
146.28 Service Building and Other Community Service Facilities
146.29 Refuse Hauling
146.30 Insect and Rodent Control
146.31 Natural Gas System
146.32 Fire Protection
146.33 Responsibilities of Park Management
146.34 Responsibilities of Park Occupants
146.35 Restriction on Occupancy
146.36 Mobile Home Park Regulations, Variations and Exceptions

146.01 PURPOSE. The purpose of this chapter is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare, and to regulate mobile home parks, lot size, parks, street standards, density, common areas, sewage requirements, water supply, mobile home stands, skirting of mobile homes, tenant storage, community buildings, yards, health standards, fire standards, building standards, recreation areas, parking areas, refuse handling, and insect and rodent control in the City.

146.02 DEFINITIONS. The following definitions shall be applicable to the terms used in this chapter.
1. “Accessory use” means a use incidental to the primary use of the mobile home park such as direct service facility building, park management building, maintenance building, community buildings, or other uses of a similar nature.

2. “Approved Mobile Home Park Development Plan” means a Mobile Home Park Development Plan approved by the Council.

3. “Appurtenances” means an attached or detached enclosed addition to a mobile home, situated on the mobile home lot for the use of its occupants, such as an enclosed carport, garage, storage shed, or items of a similar nature.

4. “Building codes” means those applicable codes enforced under the zoning code of the City.

5. “Common area” means any area or space designed for joint use of tenants occupying mobile home park.

6. “Common walk system” means a sidewalk within the mobile home park.

7. “Community building” means a building housing toilet and bathing facilities for men and women, a slop-water sink and such other facilities as may be required by this chapter or the Code of Iowa.

8. “Density” means the number of mobile homes or mobile home stands per acre.

9. “Design standards” means those standards and specifications adopted and approved for public improvements by the City.

10. “Driveway” means a minor private way used by vehicles and pedestrians on a mobile home lot.

11. “Easement” means a vested or acquired right to use land, other than as a tenant, for a specific purpose. Such right being held by someone other than the owner who holds title to the land.

12. “Electric park receptacle” means the waterproof, attachment receptacle device located adjacent to the water and sewer outlets to receive the flexible cable from the mobile home; or where required, the permanently installed conductors.

13. “Electric service drop” means that part of the electric distribution system from the main electrical distribution system, overhead or underground to the service equipment serving one or more mobile home spaces.

14. “Existing installations” means those installations which were constructed before the effective date of this chapter.

15. “Health authority” means the legally designated health authority.
16. “License” means a written license issued by the health authority, allowing a person to operate and maintain a mobile home park under the Code of Iowa.

17. “Mobile home” means a transportable, single family dwelling unit suitable for year round occupancy having no foundation other than the wheels, jacks, piers, or skirtings and containing water supply, water disposal, heating and electrical conveniences.

18. “Mobile home lot” means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

19. “Mobile home park” means a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.

20. “Mobile Home Park Development Plan” means a custom-made design for a specific site or area consisting of drawings, maps, and engineering details to set forth the boundary, topography and overall park design, including streets, parking facilities, mobile home lot locations and service facilities.

21. “Mobile home stand” means that part of an individual mobile home lot which has been reserved for the placement of the mobile home and any appurtenances thereto.

22. “New installations” means those which are proposed for construction after the effective date of these rules and regulations.

23. “Patio” means a surfaced outdoor living space designed to supplement the mobile home living area.

24. “Permit” means a written permit issued by the Council permitting the construction, alteration, and extension of a mobile home park.

25. “Plat” means a map, plan, or chart of a city, town, section, county section, or subdivision, indicating the location and boundaries of individual properties.

26. “Private street” means a private way which affords principal means of access to abutting individual mobile home lots or accessory buildings.

27. “Property line” means a recorded boundary of a plat.

28. “Public street” means a public way which affords principal means of access to abutting properties.

29. “Public system (water or sewage)” means a system which is owned and operated by a local governmental authority or by an established public utility company which is adequately controlled by governmental authority. Such systems are usually existing systems serving the municipality or a water or sewer district established and directly controlled under the laws of the State.
30. “Right-of-way” means the area, either public or private, over which the right of passage exists.

31. “Roadway” means that portion of the mobile home park street system that is surfaced for the actual travel or parking of vehicles, and including curbs.

32. “Sewer connection” means the connection of all pipes, fittings, and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewerage system serving the mobile home park.

33. “Sewer riser pipe” means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.

34. “Single ownership” means an individual, partnership, corporation, or other entity owning the whole park.

35. “Skirting” means the materials and construction around the perimeter of a mobile home floor between the bottom of the mobile home floor and the grade level of the mobile home stand.

36. “Tenant storage” means an enclosed space designed to provide auxiliary general storage space for an individual mobile home.

37. “Transient use” means the occupancy of a mobile home lot by a mobile home for a period of 14 days or less.

38. “Water connection” means the connection consisting of all pipes, meter pit, meters and fittings from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

39. “Water riser pipe” means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.

40. “Yards” means the area on the same lot with a mobile home between the lot line and the front, rear, or side of the mobile home.

For purposes of this chapter the “front” of a mobile home is considered to be that part of the mobile home facing toward the approved street or right-of-way as required by this chapter.

146.03 LIMITATIONS ON USES. The area proposed for a mobile home park shall have at least seven (7) acres of development area or provide for a minimum of 40 single wide mobile home lots or a combination of a single and double wide with a minimum square footage for single wide of 6,000 square feet and double wide of 7,200 square feet. Such area may be developed in two or more stages (plats), provided that said stages (plats) conform in all respects with the overall Mobile Home Park Development Plan. Occupancy shall not be permitted until all facilities and improvements are installed and operational for not less than twenty-five (25) mobile home lots. The maximum density allowed for the development area shall be six (6)
mobile home units per acre. No mobile home shall be connected to water, sewer, or electrical service unless the mobile home bears a certificate issued by the manufacturer of the mobile home permanently affixed on a readily visible location on the exterior of the mobile home evidencing compliance with “Standards for Mobile Homes, USAS A119.1, 1963” and amendments thereto published by United States of America Standards Institute. Compliance with the aforesaid standard shall be determined by a City official dispatched by the Council.

146.04 MOBILE HOME PARK DEVELOPMENT PLAN.

1. No mobile home shall be located or altered, or water used, nor shall any certificate of occupancy be issued therefor by the Building Official unless and until the required Mobile Home Park Development Plan is officially approved by resolution of the Council, and the required licensing provisions of Code of Iowa, Chapter 435 are complied with. Developers must comply with the requirements of the Center Point Subdivision Ordinance (Chapter 166). If a conflict between that chapter and this chapter arises, the more restrictive requirement shall apply.

2. The proposed Mobile Home Park Development (plat) Plan shall show the following:
   
   A. Topography with topographic lines at a minimum of two (2) foot intervals.

   B. Park boundaries and dimensions as obtained by a boundary survey by licensed land surveyor in the State of Iowa.

   C. Location and area of all uses, including streets and adjacent to and within the park; walks, patios, mobile home stands; play areas, parks, and common open spaces, parking areas; utilities including street lighting and fire hydrants; physical features such as retaining walls, fences, trees, and natural features; other information that may be required by the Planning and Zoning Commission, Engineering, Traffic, Fire, Health, Water, or Building Departments; easements and dedications.

   D. The Mobile Home Park Plan shall be prepared by a landscape architect, architect, engineer, land surveyor, or other experienced designer and have the seal of a duly authorized engineer or land surveyor in the State of Iowa, certifying boundaries, boundary measurements, and such other matters as are required to be so approved by the Center Point Subdivision Ordinance (Chapter 166).

3. The proposed Mobile Home Park Development Plan shall be in accordance with the Site Design Plan approved by the Council with the zoning granted for the proposed mobile home park.

4. Every mobile home park shall be constructed and maintained in accordance with the approved Mobile Home Park Development Plan.
5. All mobile homes shall be located and maintained in full conformity with the approved Mobile Home Park Development Plan.

6. In recommending upon and approving mobile home parks, the Council shall consider the location, size, height, spacing and extent of use of any mobile home and its appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces and the relationship to adjacent property. The City Planning and Zoning Commission shall not recommend nor the Council adopt such Mobile Home Park Plan unless it finds that such plan conforms to all applicable provisions of this chapter.

7. If said Mobile Home Park Development Plan contains no dedication to the City for streets or utilities or should it be contemplated that the facilities of the City shall not be used for maintenance of streets, sidewalks, water and sewer lines, garbage collection or other related functions, then the owner of the real estate contained in the mobile home court shall be required to record with such Mobile Home Park Plan a covenant that they will maintain said streets, sidewalks, water and sewer lines in compliance with the minimum standards as established by the City. Should the owner or their assignees, heirs, or those holding or owning the land through said owners, fail to maintain said standards in any of these respects, the City may after 10 days' notice to such owner, effect all the necessary repairs or improvements as required to maintain said minimum standards. The cost of all these and other necessary repairs or improvements shall become a lien against said real estate and enforced and recorded as mechanic's liens are enforced and recorded against such real estate.


A. If it is found necessary to make material or substantial alterations or modifications to an approved Mobile Home Park Development Plan, such alterations or modifications shall be subject to the approval of the Council.

B. A request for approval of alterations or modifications of a previously approved Mobile Home Park Development Plan shall be accompanied by the same kind and number of exhibits as is required for a new request for approval insofar as such exhibits are applicable to the requested alterations or modifications. When the Council by official resolution approves the revised Mobile Home Park Development Plan said revised plan will supplant the original approved Mobile Home Park Development Plan.

C. If a reasonable length of time has elapsed without significant progress having been made in completion of the mobile home park or if there has in the interim been a significant environmental change within or surrounding the area covered by the plan, the Council may require that a revised plan be submitted by the developer.
CHAPTER 146
MOBILE HOME PARKS

146.05 AREA. Every lot upon which a mobile home unit is located shall front onto an approved public or private street or right-of-way as defined in this chapter and shall conform to the following minimum lot area and width requirements.

1. Residential Use.
   A. The lot area shall be a minimum of 6,000 square feet for single wide and 7,200 square feet for double wide mobile homes, with a minimum depth of 120 feet on its longest side, and with a minimum frontage on an approved public or private street or right-of-way of not less than 15 feet.
   B. However, such minimum lot area may be reduced by an amount equal to an area included in common open space which is defined as an area permanently reserved as open space – not including land in individual lots, parking areas or streets – contiguous and immediately available to the individual lot or lots having reduced, minimum areas, and by means of location, size, shape and landscaping being obviously primarily for the utilization and enjoyment of the inhabitants of the said contiguous lots.
   C. An individual mobile home lot shall not be reduced in an area to less than 3,750 square feet.

2. Accessory Uses.
   A. The lot area shall be minimum of 4,000 square feet for basic requirements for such uses as direct servicing, management and maintenance of the park. Any such structure shall be of permanent type construction meeting all local applicable building codes.
   B. For uses requiring larger lot areas than heretofore set forth under this section, such uses may be permitted if lot sizes are increased proportionately to maintain minimum yard and separation requirements as set forth in this chapter.

146.06 YARDS, MOBILE HOME LOT. All yards shall be subject to the following provisions:

1. Front Yard. Every lot shall have a front yard not less than 20 feet in depth measured from the edge of the surface of the lot line to the closest point on the lower surface of the mobile home.

2. Side and Rear Yards. Side and rear yards shall be provided and maintained as set forth in this chapter.

146.07 REQUIRED SEPARATION BETWEEN MOBILE HOMES, ACCESSORY USES, AND APPURTEANCES.

1. Every mobile home shall be separated from other mobile homes and from accessory buildings on adjacent lots by a minimum distance of 25 feet.
2. Appurtenances attached to a mobile home shall be provided with a minimum separation of 25 feet from:
   A. Any other attached appurtenance on an adjacent lot.
   B. Any mobile home on an adjacent lot.
   C. Any accessory building on an adjacent lot.

3. There shall be provided and maintained a minimum distance of 10 feet between any detached appurtenance and:
   A. Any other attached appurtenance on the same lot.
   B. Any mobile home on the same lot.
   C. Any detached appurtenance on an adjacent lot.
   D. Any mobile home on an adjacent lot.

4. There shall be provided and maintained a minimum distance of 25 feet between any detached appurtenance and any necessary building on adjacent lots.

5. Mobile homes shall be separated from each other on opposing sides of public or private streets a minimum of 45 feet provided that in no event shall the required front yard be less than set forth in this chapter. No mobile home accessory use or appurtenance shall be permitted in the required mobile home lot front yard or in the required separation between mobile homes on opposing sides of public or private streets as provided in this chapter.

146.08 PARK PERIMETER GENERAL AREA REQUIREMENTS.

1. Each yard abutting on a perimeter public street shall be considered a front yard and shall be a minimum of 50 feet in depth.

2. All other yards shall have a minimum depth of 50 feet when adjacent to any other “R” District other than an “R-MH” District, and 35 feet when adjacent to another district or when adjacent to any district other than an “R-MH” District.

3. The yard requirement herein may be reduced by one-half (½) the width of any alley adjacent thereto and, provided further that a greater or lesser yard may be required where the Council deems necessary.

4. Where the boundary of a mobile home park directly abuts another use district, the Council may, where it is deemed necessary, require that an area a minimum of 10 feet in width be reserved along the perimeter of the mobile home park and within said area require the erection of a fence or wall six (6) feet in height of a material which will provide a significant visual and sound barrier, and/or screen plantings to be provided and maintained with a minimum height of eight (8) feet at maturity; or as
otherwise required by the Council. Said barrier of plantings shall be maintained by the mobile home park.

146.09 **SOIL AND GROUND COVER REQUIREMENTS.** Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of preventing dust.

146.10 **SITE DRAINAGE REQUIREMENTS.** Adequate provisions shall be made to handle all surface and storm drainage water as determined by the City and in accordance with the City’s storm water ordinance.

146.11 **LOT MARKERS.** The limits of each mobile home lot shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finish lot grade. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale of the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is in no way to be construed as permitting lots of a lesser size than the required minimum or in permitting lesser yard or separation dimensions than set forth elsewhere in this chapter.

146.12 **PARK AREAS FOR ACCESSORY USES.**

1. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

2. Nothing contained in this section shall be deemed as prohibiting the sale by an owner of a mobile home located on a mobile home stand and connected to the pertinent utilities. Any sales of mobile homes in place on the mobile home stand shall not in any way relieve any parties involved from complying with all the applicable regulations of this chapter.

146.13 **REQUIRED RECREATION AREAS.**

1. In all parks, there shall be one or more recreation areas which shall be easily accessible to all park residents.

2. The size of such recreation areas shall be based upon a minimum of 250 square feet for each lot. No outdoor recreation area shall contain less than 2500 square feet.

3. Required recreation areas shall be computed in addition to any other common open space required elsewhere in this chapter.

4. Recreation areas shall be so located as to be free of traffic hazards and shall be easily accessible.
146.14  PARK STREET SYSTEMS.

1. General Requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public or private streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography.

2. Access. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 42 feet where parking is permitted on both sides, or a minimum road pavement width of 32 feet where parking is limited to one side. Where the primary entrance road is more than 100 feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be 24 feet providing parking is prohibited at both sides.

3. Interior Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:
   
   A. All streets, except minor streets, no parking 24 feet.
   B. Minor streets, no parking 22 feet.
   C. One-way minor street, no parking 12 feet. (Acceptable only if less than 500 feet total length and serving less than 25 mobile home lots.)
   D. No outlet streets shall be limited in length to 300 feet and shall be provided at the closed end with a turn around having an outside roadway radius of at least 40 feet with no parking permitted. Where parking is permitted, the radius shall not be less than 48 feet.
   E. All streets of a mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the City Engineer and by any other governmental agency exercising control over such streets or roads.
   F. Streets that will be dedicated to the City shall be constructed to meet the current design standards for public improvements adopted by the City.

4. Required Illumination of Mobile Home Park Street System. The parks shall be furnished with lighting units so spaced and equipped with approved fixtures placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night.
   
   A. All parts of the park street systems: 0.6 foot candle, with a minimum of 0.25 foot candle.
B. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated with a minimum of 0.4 foot candle.

5. Street Construction and Design Standards.

A. Pavement. All streets shall be constructed with either hot mix asphaltic concrete or portland cement concrete with an approved curb to provide for drainage. Street surfaces shall be maintained free of cracks, holes and other hazards. All streets shall be constructed to specifications approved by the City.

B. Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than five percent (5%). City Engineer approval required for grades over seven percent (7%). Maximum allowable to be twelve percent (12%) and minimum allowable to be five percent (5%). All street grades shall have prior approval of the City before commencing construction.

C. Intersections. Within 100 feet of an intersection, streets shall be at approximately right angles. A distance of at least 125 feet shall be maintained between center line of off-set intersecting streets. Intersections of more than two streets at one point shall be avoided.

146.15 REQUIRED PARKING AREA.

1. Parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two car spaces for each mobile home lot. No on-street parking shall be allowed.

2. Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve. All parking areas shall be constructed with a hard, smooth, dust-free surfacing consisting of either not mix asphaltic concrete or portland cement concrete with minimum thickness to be approved by the City Engineer.

3. Sufficient off-street parking and storage area shall be provided to meet anticipated requirements of park occupants for storing of boats, boat trailers, travel trailers, pickup coaches, truck tractors, trucks over ¾-ton pickup size, and items of a similar nature. Said parking and storage area shall be in addition to parking required elsewhere in this section and parking and storage of vehicles and items listed in this paragraph shall not be permitted in parking areas required elsewhere in this section.

Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand; such temporary storage of a mobile home shall not exceed 48 hours.
146.16 WALKS.

1. General Requirements. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient should be avoided. All sidewalks shall be constructed to specifications approved by the City.

2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four feet and when constructed adjacent to the street curbing shall be a minimum of five feet.

3. Individual Walks. All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall have a minimum width of two feet.

146.17 MOBILE HOME STANDS. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

1. The mobile home stand shall be constructed in such a manner that it will not heave, shift, or settle unevenly under the weight of the mobile home due to inadequate drainage, vibration or other forces acting on the superstructure. The mobile home stand shall be constructed at a minimum with 6" deep x 30" wide poured concrete ribbons with 6x6 #10 wire mesh reinforcing and of sufficient length to support all wheels and undercarriage supports of any mobile home that may be placed on the mobile home stand.

2. The mobile home stand shall be provided with anchors, arrowhead anchors, or other devices insuring the stability of the mobile home.

3. Tie-down or anchors shall be placed at least at each corner of the mobile home stand to provide a readily accessible anchor for the mobile home and each shall be able to sustain a minimum tensile strength of 2800 pounds.

4. Skirting of a permanent type material and construction shall be installed to enclose the open space between the bottom of a mobile home floor and the grade level of the mobile home stand and shall be so constructed to provide substantial resistance to heavy winds, thereby alleviating to the maximum extent possible, lifting action created on the underside of the mobile home by heavy winds.

5. Sufficient screened, ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and other ventilating requirements of the mobile home. Provision shall be made for easy removal of a section large enough
CHAPTER 146
MOBILE HOME PARKS

146.18 WATER SUPPLY. All mobile home stands and mobile home park facilities shall be connected to a City water supply and its supply used exclusively.

146.19 WATER DISTRIBUTION SYSTEM.

1. The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings, and other facilities requiring water.

2. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements and shall be of a type and in locations approved by the City Water Department.

3. The water system shall be designed, constructed, and maintained according to specifications of the Center Point City Water Department with a minimum water main size of 6” for adequate fire flows.

146.20 Individual Water Riser Pipes and Connections.

1. Individual water riser pipes shall be located within the confined area of the mobile home stand as near to the center from front to back as possible and at a pint where the water connection will approximate a vertical position, as near to the center of the stand as possible.

2. Water riser pipes shall extent at least to ground level. The pipe shall be at least three-fourths (¾) inch. The water outlet shall be capped when a mobile home does not occupy the lot.

3. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.

4. A shut-off valve below the frost line shall be provided near the water riser pipe on each mobile home lot.

5. Underground stops and water valves shall be installed and connected to the water supply as required by City Water Department regulations.

6. Water meter pits and water meters shall be installed for each mobile home and building using water. The meter pit shall be located in a manner free and clear from obstruction, i.e., not located under mobile homes.

7. There shall be a water meter set at the connection point to the City mains.
146.21 SEWAGE DISPOSAL. An adequate and safe sewage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with State and local laws.

146.22 SEWER LINES. All sewer mains and laterals shall be constructed according to specifications of the City and connected to the City sewer system or a sewerage system approved by the City.

146.23 INDIVIDUAL SEWER CONNECTIONS.

1. Each mobile home stand shall be provided with at least a four inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand as near to the center from front to back as possible and so that the sewer connection to the mobile home drain outlet will approximate a vertical position, as near the center of the stand as possible.

2. The sewer connection (see definition) shall have a minimum inside diameter of three inches, and the slope thereof shall not be less than one-fourth (¼) inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be air and watertight.

3. All materials used for sewer and sewer connections shall be semi-rigid, corrosive resistant, nonabsorptive and durable. The inner surface shall be smooth.

4. Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least to ground level.

146.24 ELECTRICAL DISTRIBUTION SYSTEM. Every park shall contain an electrical wiring system consisting of necessary wiring, fixtures, and equipment which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

146.25 MAIN ELECTRICAL POWER DISTRIBUTION LINES. Main electrical power lines should be constructed underground according to local electric utility specifications.

146.26 INDIVIDUAL ELECTRICAL CONNECTIONS.

1. Each mobile home stand shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per mobile home stand outlet shall be according to the National Electrical Code.

2. Outlet receptacles at each mobile home stand shall be located as close to the center front to back as possible and not more than 25 feet from the over-current protective devices in the mobile home and a three pole, four-wire grounding type shall be used. Receptacles shall be of weather proof construction and configuration shall be in accordance with Standard for Mobile Homes USAS A119.1 published by United States of America Standards Institute.
3. The mobile home shall be connected to the outlet receptacles by an approved type of flexible cable with connectors and a male attachment plug. However, where the calculated load of the mobile home is between 50 and 100 amperes, a second 50 amperes power supply assembly may be installed or an electrical service shall be provided by means of permanently installed conductors.

4. Where the calculated load exceeds 100 amperes or where a permanent feeder is used, the supply shall be by means of a four-wire installation.

146.27 REQUIRED GROUNDING. All exposed non-current-carrying metal parts of mobile homes and all equipment having electrical connections shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as a ground for mobile homes or other electrical equipment.

146.28 SERVICE BUILDING AND OTHER COMMUNITY SERVICE FACILITIES.

1. General. The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities, such as:

   A. Management offices, repair shops and storage areas.

   B. Sanitary facilities.

   C. Laundry facilities.

   D. Indoor recreation areas.

2. Required Community Sanitary Facilities. Every park shall be provided with the following emergency sanitary facilities. For each 100 mobile home lots, or fractional part thereof, there shall be one flush toilet and one lavatory for each sex. The building containing such emergency sanitary facilities shall be accessible to all mobile homes. Where waiver of such facilities is permitted by the State code governing new mobile home parks, the provisions of this section may be waived.

3. Structural Requirement for Building. All buildings other than mobile homes and their appurtenances shall be constructed in compliance with applicable State and local codes and regulations.

4. Barbecue Pits, Fireplaces. Cooking shelters, barbecue pits and fireplaces shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

146.29 REFUSE HAULING.

1. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding...
areas, accident or fire hazards or air pollution. Refuse collection and disposal shall be in compliance with current City ordinance on refuse disposal and recycling.

2. All refuse shall be stored in fly-tight, water-tight, rodent proof containers, which shall be located not more than 300 feet from any mobile home lot they serve. Containers shall be provided in sufficient number and capacity to properly store all refuse.

3. Refuse collection stands consisting of a holder or rack elevated at least 12 inches above ground level, or an impervious slab at ground level shall be provided for all refuse containers. Such container stands shall be so designed as to prevent container from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

4. Method of garbage collection/recycling/sewer shall be determined by the Council at the time of the passage of the plat.

146.30 INSECT AND RODENT CONTROL.

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the health authority.

2. Parks shall remain free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

3. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.

4. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other offensive insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

146.31 NATURAL GAS SYSTEM. Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

146.32 FIRE PROTECTION.

1. The mobile home park area shall be subject to the rules and regulations of the City of Center Point/Washington Township Fire Agency.

2. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

3. Portable fire extinguishers of a type approved by the Center Point/Washington Township Fire Agency shall be kept in service buildings and at all
locations designated by such fire prevention authority and shall be maintained in good operating condition.

4. Fires shall be made only in stoves and other equipment intended for such purposes.

5. Fire hydrants shall be installed in the water system and located at such locations as determined by the Center Point Water Department.

146.33 RESPONSIBILITIES OF PARK MANAGEMENT.

1. The mobile home park owner shall operate the park in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.

3. The park management shall be responsible for the proper placement of each mobile home on its mobile home stand which includes securing its stability, installing all utility connections and required skirting. Required skirting shall be installed in accordance with the provisions of this chapter and within 30 days after initial occupancy unless prohibited by frozen ground, in which event such skirting shall be installed 30 days after ground becomes unfrozen.

4. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

5. The park management shall notify the health authority immediately of any suspected communicable or contagious disease within the park.

146.34 RESPONSIBILITIES OF PARK OCCUPANTS.

1. The park occupant shall comply with all applicable requirements of this chapter and regulations issued hereunder and shall maintain the mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

2. All City ordinances with respect to keeping of animals and pets shall apply.

146.35 RESTRICTION ON OCCUPANCY. A mobile home shall not be occupied for dwelling purposes unless it is properly placed in a mobile home stand and connected to water, sewage and electrical utilities.

146.36 MOBILE HOME PARK REGULATIONS, VARIATIONS AND EXCEPTIONS. When the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such
development of unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustice, the Council upon recommendation of the Planning and Zoning Commission may vary or modify such requirements so that the developer is allowed to develop his or her property in a reasonable manner, but, at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

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CHAPTER 147
WATER WELL PROTECTION

147.01 Purpose

The purpose of this chapter is to establish separation distances from wells for all structures and uses, and to protect the health, safety and welfare of the citizens of the City and to assure that drinking and non-drinking wells as defined by the Iowa Department of Natural Resources rules as stated in the 567 Iowa Administrative Code - 135.2 maintain the appropriate setbacks from other uses.

147.02 Establishment of Separation Distances

The distances for separating uses and construction around all wells within the City, including old wells as well as new wells, have been established by State requirements relative to possible pollutants and their distances from wells, and the Council has found that the said State requirements shall be adopted as the minimum acceptable requirements for separation distances from wells, and no construction or use shall be allowed within said minimum distances to City wells as set forth herein.

147.03 Definitions

For the purpose of this chapter, certain terms and words are herein defined. Use of the word “building” includes the word “structure.”

1. “Animal enclosure” means a lot, yard, corral or similar structure in which the concentration of livestock or poultry is such that a vegetative cover is not maintained.

2. “Animal pasturage” means a fenced area where vegetative cover is maintained and in which the animals are enclosed.

3. “Animal waste” means animal waste consisting of excreta, leachings, feed losses, litter, wash water or other associated wastes.

4. “Animal waste stockpiles” means stacking, composting, or containment of animal wastes.

5. “Animal waste storage basin or lagoon” means fully or partially excavated or diked earthen structure including earthen side slopes or floor.

6. “Animal waste storage tank” means a completely fabricated structure, with or without a cover, either formed in place or transported to the site, used for containing animal waste.

7. “Cistern” means a covered tank in which rain water from roof drains is stored.
8. “Deep well” means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at a depth of at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn.

9. “Drinking water well” means any groundwater well used as a source of drinking water by humans and any groundwater wells used primarily for the final production of food or medicine for human consumption in facilities routinely characterized with the Standard Industrial Codes (SIC) Group 283 for medicine and Group 20 for foods.

10. “Low permeability” means an unconsolidated soil layer of well sorted fine-grain-sized sediments that under normal hydrostatic pressures would not be significantly permeable. Low permeability soils may include homogeneous clays below the zone of weathering, mudstone, claystone, and some glacial till.

11. “Non-drinking water well” means any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well which is not properly plugged in accordance with Iowa Department of Natural Resource rules as stated in the 567 Iowa Administrative Code, Chapters 39 and 49.

12. “Privy” means a structure used for the deposition of human body wastes.

13. “Sanitary sewer pipe” means a sewer complying with the standards for sewer construction of the Department of Natural Resources.

14. “Septic tank” means a watertight tank which receives sewage.

15. “Shallow well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.

16. “Water main pipe” means a water main complying with the Department of Natural Resources standards for water main construction.

147.04 WELLS. No person within the City shall drill, construct or use a “drinking water well” or “non-drinking water well” for use within the corporate City limits where public water is reasonably available in accordance with Section 90.03 of this Code of Ordinances, and as determined by the City. No work to drill, construct or use a well shall begin unless a valid permit has first been issued by the City.

147.05 SHALLOW WELL PROTECTION. No structure or facility of the following enumerated types shall be located within the distances hereinafter set forth, from a shallow public well within the City.

1. Well house floor drains to ground surface - 5 feet;
2. Water treatment plant wastes to ground surface - 50 feet;
3. Sanitary and industrial discharges to ground surface - 400 feet;
4. Floor drains from pump house to surface:
   A. None within 5 feet;
   B. 5 to 10 feet – water main materials enclosed in concrete permitted;
   C. 10 to 25 feet – must be water main material;
   D. 25 to 75 feet – must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
   A. None permitted within 25 feet;
   B. 25 to 75 feet – must be water main material;
   C. 75 to 200 feet – must be watertight sewer pipe;
6. Force mains:
   A. None permitted within 75 feet;
   B. 75 to 400 feet – must be water main materials;
7. Land application of solid waste – 200 feet;
8. Irrigation of wastewater – 200 feet;
9. Concrete vaults and septic tanks – 200 feet;
10. Mechanical wastewater treatment plants – 400 feet;
11. Cesspools and earth pit privies – 400 feet;
12. Soil absorption fields – 400 feet;
13. Lagoons – 1,000 feet;
14. Chemicals:
   A. Application to ground surface – 200 feet;
   B. Above ground storage – 200 feet;
   C. On or underground storage – 400 feet;
15. Animal pasturage – 50 feet;
16. Animal enclosure – 200 feet;
17. Animal wastes:
A. Land application of solids – 200 feet;
B. Land application of liquid or slurry – 200 feet;
C. Storage tank – 200 feet;
D. Solids stockpile – 400 feet;
E. Storage basin or lagoon – 1,000 feet;

18. Earthen silage storage trench or pit – 200 feet;
19. Basements, pits, sumps – 10 feet;
20. Flowing streams or other surface water bodies – 50 feet;
21. Cisterns – 100 feet;
22. Cemeteries – 200 feet;
23. Private wells – 400 feet;
24. Solid waste disposal sites – 1,000 feet.

147.06 DEEP WELL PROTECTION. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from a deep public well within the City.

1. Well house floor drains – 5 feet;
2. Water treatment plant wastes – 50 feet;
3. Sanitary and industrial discharges – 400 feet;
4. Floor drains from pump house to surface:
   A. None within 5 feet;
   B. 5 to 10 feet – water main materials enclosed in concrete permitted;
   C. 10 to 25 feet – must be water main material;
   D. 25 to 75 feet – must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
   A. None permitted within 25 feet;
   B. 25 to 75 feet – must be water main material;
   C. 75 to 200 feet – must be watertight sewer pipe;
6. Force mains:
   A. None permitted within 75 feet;
B. 75 to 400 feet – must be water main materials;

7. Land application of solid waste – 100 feet;

8. Irrigation of wastewater – 100 feet;

9. Concrete vaults and septic tanks – 100 feet;

10. Mechanical wastewater treatment plants – 200 feet;

11. Cesspools and earth pit privies – 200 feet;

12. Soil absorption fields – 200 feet;

13. Lagoons – 400 feet;

14. Chemicals:
   A. Application to ground surface – 100 feet;
   B. Above ground storage – 100 feet;
   C. On or underground storage – 200 feet;

15. Animal pasturage – 50 feet;

16. Animal enclosure – 100 feet;

17. Animal wastes:
   A. Land application of solids – 100 feet;
   B. Land application of liquid or slurry – 100 feet;
   C. Storage tank – 100 feet;
   D. Solids stockpile – 200 feet;
   E. Storage basin or lagoon – 400 feet;

18. Earthen silage storage trench or pit – 100 feet;

19. Basements, pits, sumps – 10 feet;

20. Flowing streams or other surface water bodies – 50 feet;

21. Cisterns – 50 feet;

22. Cemeteries – 500 feet;

23. Private wells – 200 feet;

24. Solid waste disposal sites – 1,000 feet.
147.07 DESIGNATION OF WELLS. The City Council shall designate each water well within the City as being a “shallow well” or “deep well” for the purpose of this chapter.

147.08 PRIOR STRUCTURES OR FACILITIES. The use of structures or facilities that existed prior to adoption of this Code of Ordinances may be continued even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of this Code of Ordinances.

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CHAPTER 150
BUILDING NUMBERING

150.01  Definitions. For use in this chapter, the following terms are defined:

1. “Owner” means the owner of the principal building.

2. “Principal building” means the main building on any lot or subdivision thereof.

150.02  Owner Requirements. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03  Building Numbering Plan. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.
CHAPTER 151

TREES

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 City right-of-way without
Council approval. If Council approval has been obtained, planting shall be 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 nine (9)
feet in width, or contains less than eighty-one (81) 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 in the Street. No person shall plant adjacent to all streets,
any fruit-bearing tree or any tree of the kinds commonly known as cottonwood,
poplar, box elder, Chinese elm, evergreen, willow or black walnut.

4. Prohibited Trees. The following trees shall not be planted within the City of
Center Point without Council approval:

   1. Boxelder    7. Black Locust
   2. Poplars     8. Tree of Heaven
   3. Willows     9. Catalpa
   4. Silver Maple10. European Mt. Ash
   5. Weeping Birch11. Cottonwood

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 in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

(Code of Iowa, Sec. 364.12[3b & h])
155.01   PURPOSE.  The purpose of this chapter is to outline the procedures for obtaining building permits. For use in this chapter “building inspector” means the Housing Official.

155.02   PERMITS REQUIRED. Except as specified under Section 155.03, no building or structure regulated by this Code of Ordinances shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained.

155.03   WORK EXEMPT FROM PERMIT. A building permit is not required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

2. Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.

3. Platforms, walks and driveways not more than 30 inches above grade and not over any basement or story below.

4. Painting, papering and similar finish work.

5. Window awnings supported by an exterior wall of Group R, Division 3, and Group U Occupancies when projecting not more than 54 inches.

Exception from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.
CHAPTER 155 BUILDING PERMITS

155.04 APPLICATION FOR PERMIT. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Clerk’s office for that purpose. Every application shall:

1. Identify and describe the work to be covered by the permit for which the application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use or occupancy for which the proposed work is intended.

4. Be accompanied by plans, diagrams, computations and specifications and other data as required in Section 155.05.

5. Indicate type of structure and square footage for each floor.

6. Indicate setback measurements and include drawing illustrating setback measurements on sheet attached to permit application.

7. Be signed by the applicant or the applicant’s authorized agent.

8. Give such other data and information as may be required by the building official.

155.05 SUBMITTAL DOCUMENTS. Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents to be submitted in one or more sets with the application for the permit. When such plans are not prepared by an architect or engineer, the building inspector may require the applicant submitting such plans or other data to demonstrate that State law does not require that the plans be prepared by a licensed architect or engineer. The building inspector may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such even if not required by State law. EXCEPTION: The building inspector may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that reviewing of the plans is not necessary to obtain compliance with this chapter.

155.06 INFORMATION ON PLANS/SPECIFICATIONS. Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. Plans for buildings of other than Group R, Division 3 and Group U Occupancies shall indicate how required structural and fire resistive integrity will be maintained where penetrations will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.
155.07 ARCHITECT OR ENGINEER OF RECORD. When it is required that documents be prepared by an architect or engineer, the building inspector may require the owner to engage and designate on the building permit application an architect or engineer who shall act as the architect or engineer of record. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all the duties required of the original architect or engineer of record. The building inspector shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties. The architect or engineer of record shall be responsible for reviewing and coordinating all submittal document prepared by others, including deferred submittal items, for compatibility with the design of the building.

155.08 DEFERRED SUBMITTALS. For the purposes of this section, “deferred submittals” are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building inspector within a specified time. Deferral of any submittal items shall have prior approval of the building inspector. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the building inspector. Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the building inspector with a notation indicating that the deferred submittal documents have been reviewed and they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the building inspector.

155.09 INSPECTION AND OBSERVATION. When special inspection is required under Section 1704 of the International Building Code, the architect or engineer of record shall prepare an inspection program that shall be submitted to the building inspector for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work that require special inspection and the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors. The special inspector shall be employed by the owner, the architect or engineer of record or an agent of the owner, but not the contractor or any other person responsible for the work. When structural observation is required by Section 1702 of the International Building Code, the inspection firm shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

155.10 PERMIT ISSUANCE. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building inspector. Such plans may be reviewed by other departments of the jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the building inspector finds that the work described in an application for a permit and plans, specifications and other data filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, and that the fees specified in Section 155.15 have been paid, the Clerk shall issue a permit therefor to the
applicant. When plans are required to be submitted, the building inspector shall endorse in writing or stamp the plans and specifications APPROVED. Such approved plans and specifications shall not be changed, modified or altered without authorizations from the building inspector, and all work regulated by this chapter shall be done in accordance with the approved plans. The building inspector may approve the issuance of a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted. Further construction will require a second submission and approval.

155.11 RETENTION OF PLANS. One set of approved plans, specifications and computations shall be retained by the building inspector for a period of not less than 90 days from the day of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

155.12 VALIDITY OF PERMIT. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on plans, specifications and other data shall not prevent the building inspector from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this chapter or any other ordinances of this jurisdiction.

155.13 EXPIRATION. A building permit is good for one year from date of issuance. Every permit issued after the passage of and under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be obtained to do so, and the fee therefor shall be one half the building permit fee required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and further provided that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee. Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The building inspector may extend the time for action by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.
155.14 SUSPENSION OR REVOCATION. The building inspector may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of the chapter.

155.15 FEES. Fees shall be assessed in accordance with a valuation and fee schedule adopted by Council resolution. The determination of value or valuation and the fee under any provisions of this chapter shall be made by the Clerk. The value to be used in computing the building permit fee shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent equipment. Projects not listed on the valuation schedule but still requiring a permit will be assessed at a set fee adopted by Council resolution. Reinspection fees as set forth by Council resolution shall be paid prior to additional inspections of the work. Utility impact fees in an amount set forth by Council resolution shall be paid at the same time as the building permit fee.

155.16 INVESTIGATION AND FEE. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this chapter. The payment of such investigation fee shall not exempt any person from compliance with all other provisions or penalties prescribed under the City Code.

155.17 INSPECTIONS. The building inspector shall make such inspections as provided in the International Building Code.

155.18 CERTIFICATE OF OCCUPANCY. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building inspector has issued a certificate of occupancy therefor as provided herein. EXCEPTION: As provided under Section 109.1 of the International Building Code. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this chapter or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this chapter or other ordinances of the jurisdiction shall not be valid. Changes in the character or use of a building shall not be made except as specified in Chapter 34 of the International Building Code. If the building inspector finds no violations of the provisions of this chapter or other ordinances of the City, the building inspector shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.

2. The address of the building.

3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.

5. A statement that the described portion of the building has been inspected for compliance with the requirements of this chapter for the group and division of occupancy and the use for which the proposed occupancy is classified.

6. The name of the building inspector.

If the building inspector finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, a temporary certificate of occupancy may be issued for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. The building inspector may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this chapter whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or portion thereof is in violation of any ordinance or regulation of the City.
157.01 PURPOSE AND GENERAL POLICY. The Council finds that in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property, it is necessary for the City to establish uniform rules and policies. This chapter is to be interpreted in light of these findings for the benefit of the citizens of the City.

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

1. "Antenna" means a device used to transmit or receive telecommunications signals from a tower.

2. "Communications tower" means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.

3. "Height" of a communications tower is the distance from the base of the tower to the top of the structure.

4. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

157.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all...
telecommunications providers that request a location on City property for their communications towers and antennas.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.

2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.

4. To assure revenues from site leases of City-owned and -controlled land and structures reflects fair compensation for use of City property and administration of this chapter.

157.04 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

157.05 FEE REQUIRED. No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

157.06 LIMIT ON TERM. No lease for the use of public property shall be granted for a term of more than 15 years.

157.07 PRIORITIES AND PLACEMENT REQUIREMENTS.

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:

   A. All functions of the City.

   B. Public safety agencies that are not a part of the City, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the City.

   C. Other governmental agencies for uses which are not related to public safety.

   D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.

2. Placement. The placement of communications antennas or towers on City-owned property must comply with the following requirements:
A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.

B. The antenna or tower will have no adverse impact on surrounding private property.

C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established by the Council (Section 157.10) and shall reflect potential expenses and risks to the City and other appropriate factors.

D. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the cost of antenna or tower removal.

E. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

F. Upon reasonable notice, the antennas or towers may be required to be removed at the user’s expense.

G. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant’s antenna or tower.

H. The user must obtain all necessary land use approval.

I. The applicant will cooperate with the City’s objective to promote collocations and thus limit the number of separate antenna sites requested.

**157.08 APPLICATION PROCESS.**

1. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the Clerk a completed application accompanied by a fee of $200.00 and the following documents, if applicable:

   A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.

   B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.
C. A current map or update for an existing map on file showing locations of applicant’s antennas, facilities, existing towers and proposed towers which are reflected in public records, serving any property within the City.

D. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222, latest revision, standards.

E. Identification of the owners of all antennas and equipment to be located on the site.

F. Written authorization from the site owner for the application.

G. Evidence that a valid FCC license for the proposed activity has been issued.

H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.

I. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.

J. Additional information, as required, to determine that all applicable zoning regulations are met.

K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This set back requirement shall not apply to (1) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City, or (2) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.

2. Applicant must also show evidence that all of the following conditions which are applicable are met:

A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant’s technical design requirements.

B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and
applicant’s technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.

D. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant’s technical design requirements.

E. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant: (i) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or collocate the applicant’s telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site, or (ii) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person’s tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant’s wireless communications system.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant’s present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

I. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the Council a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to $1,000,000.00
in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the City Attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:

   (1) Residential – Free-standing tower with height not exceeding 100 feet is a permitted conditional use; height exceeding 100 feet requires special exception.

   (2) Commercial – Free-standing or guyed tower with height not exceeding 180 feet is a permitted conditional use; height exceeding 180 feet requires special exception.

   (3) Industrial – Free-standing or guyed tower with height not exceeding 360 feet is a permitted conditional use; height exceeding 360 feet requires special exception.

   (4) Other – Free-standing or guyed tower with height not exceeding 500 feet is a permitted conditional use; height exceeding 500 feet requires special exception.

K. A tower must be a minimum distance equal to one and one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or 25% of the tower height, whichever is greater.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within 90 days after all application materials are received.

157.09 NOISE AND EMISSION STANDARDS.

1. Noise. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.

2. Emissions. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.
157.10 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. The placement and maintenance of communications antennas or towers on City-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met.

1. Water Tower or Reservoir Sites. The City’s water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City’s water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met:

   A. The applicant must have written approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.

   B. There is sufficient room on the structure and/or the grounds to accommodate the applicant’s facility.

   C. The presence of the facility will not increase the water tower or reservoir maintenance cost to the City.

   D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir.

The following fees will be assessed for placing facilities on a City water tower: $1,000.00.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the Park Board and approval of the Council.

   A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.

   B. Commercial recreational areas and major ball fields.

   C. Park maintenance facilities.

The following fees will be assessed for placing facilities on park property: Applicant must approach the Council and they will make the determination.

157.11 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Council who shall have the right to request documentation and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the
owner/operator of the tower shall have an additional 180 days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (ii) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

157.12 TERMINATION. The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.

2. A user’s frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.

3. A user violates any of the standards in this chapter or the conditions attached to the City’s lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

157.13 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

157.14 NEW TECHNOLOGIES. Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.
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CHAPTER 158
BUILDING CODES

158.01 Purpose
158.02 Adoption of Codes
158.03 Application of Code Regulations
158.04 Amendments
158.05 Conflicts
158.06 Violation

158.01 PURPOSE. The purpose of this chapter is to protect public health, property, welfare and safety and establish reasonable minimum requirements for the construction, repair, moving, demolition and use of buildings, structures and related equipment, fixtures and systems.


158.03 APPLICATION OF CODE REGULATIONS. All construction for which a building permit (Chapter 155) is required shall conform to the standards contained in the International Building Code, Uniform Mechanical Code, Uniform Plumbing Code and National Electrical Code.

158.04 AMENDMENTS. The following amendments to the Codes adopted in Section 158.02 are made:

2. International Residential Code – Delete Chapter 41 and Appendix G.

158.05 CONFLICTS. If conflicts arise in requirements with regards to specifications of materials or methods between portions of these Codes, between these Codes and other local codes or between these Codes and applicable State or Federal requirements, the more stringent shall apply.

158.06 VIOLATION. It is unlawful for any person to erect, construct, enlarge, alter, repair, improve, use, occupy or maintain any building or structure in the City, or cause the same to be done, contrary to or in violation of this chapter. Each violation shall constitute a separate offense.
CHAPTER 159

HOUSING CODE

159.01 Definitions. The following terms are defined for use in this chapter:

1. “Approved,” as to materials and types of construction, means and refers to approval of the Housing Official as the result of investigation and tests conducted by the Housing Official, or by reason of accepted principles or tests by national authorities, technical or scientific organizations.

2. “Building, existing” means a building erected prior to the adoption of this Housing Code, or one for which a legal building permit (Chapter 155) has been issued.

3. “Congregate housing” means and refers to the same as “independent group residence” except that some or all of the dwelling units do not have kitchen facilities, and connected with which there is a central dining facility to provide meals for occupants.

4. “Dwelling” means any building, structure or mobile home except temporary housing which is wholly or partly used or intended to be used for living or sleeping by human occupants and including any appurtenances attached thereto.

5. “Dwelling unit” means any room or group of rooms located with a building forming a single habitable unit with facilities that are used for living, sleeping, cooking, or eating or both by one family.
6. “Dwelling unit, rental” means any dwelling unit which is or is intended to be rented, leased, let or hired out to be occupied.

7. “Egress” means an arrangement of existing facilities to assure a safe means of exit from buildings.

8. “Family” means one or more individuals living together and sharing common living, sleeping, cooking or eating facilities.

9. “Housing Official” means the individual and the individual’s designated representatives appointed by the City Administrator to administer and enforce the Housing Code.

10. “Independent group residence” means housing for the exclusive residential use of two to twelve elderly, handicapped or disabled individuals, excluding one or two Resident Assistants, if needed, who cannot live completely independently and require a planned program of supportive services, and designated by the U.S. Department of Housing and Urban Development as an “independent group residence.”

11. “Lead-based paint” means any paint containing more lead than the level established by the U.S. Consumer Product Safety Commission as being the “safe” level of lead in residential paint and paint products.

12. “Multiple-unit residential building” means a residential building, an apartment house or a portion of a building or an apartment house with four or more units, hotel, motel, dormitory or rooming house.

13. “Owner” means any person, agent, partnership or corporation having a legal or equitable interest in the property.

14. “Rooming house” means any dwelling, other than a nursing home, hotel or motel, or that part of any dwelling, containing one or more rooming units, and in which persons either individually or as families are housed.

15. “Rooming unit” means any room or group of rooms forming a single rental habitable unit or intended to be used for living or sleeping, but not for cooking purposes.

16. “Temporary housing” means any tent, trailer, motor home or other structure used for human shelter for less than seventy-two (72) hours, which is designed to be transported and which is not attached to the ground, to another structure, or to any utility system on the same premises.

17. “Unit” means residential space for the private use of a family, including individuals who comprise a family, such as an apartment, housing or independent group residence, which contains a living room, kitchen area, bathroom and bedroom.
159.02 REGISTRATION AND FEES.

1. Registration Required. No person shall operate a rental dwelling unit, rooming house, congregate housing or independent group residence unless the person has first registered such rental dwelling unit, rooming house, congregate housing or independent group residence with the City. There shall be no fee for such registration.

2. Duration of Registration. Such registration shall remain in effect until there occurs a change in ownership or designation of agents of the rental dwelling unit, rooming house, congregate housing or independent group residence. Upon the sale of any rental dwelling unit, rooming house, congregate housing or independent group residence the seller shall immediately notify the Housing Official and an inspection will be performed prior to the new owner taking possession of the property, unless an inspection has been performed within the thirty days preceding the sale. In such event, the owner, operator or agent of such property shall register such property with the City within sixty (60) days of such change in ownership.

3. Change of Tenancy. Upon a change in tenancy of any rental dwelling unit, rooming house, congregate housing or independent group residence, the owner shall immediately notify the Housing Official and an inspection will be performed prior to the new tenant taking possession of the property, unless an inspection has been performed within the thirty days preceding the sale.

4. Registration Form. Registration shall not be in effect unless the owner, operator or agent has first made application on an application form provided by the City. At the time of registration, the owner, operator or agent shall designate an agent for the service of process who is a resident of the State of Iowa.

5. Inspection Fees. The following fee schedule shall apply:

   A. Regular inspections, as set forth in the plan of inspection, including one re-inspection – $50.00 for inspection of the exterior structure, common areas, basement and attic, plus $15.00 for each dwelling unit.

   B. Complaint inspections – $25.00 for each complaint inspection, if a violation of the Housing Code is found; no fee if no violation of the Housing Code is found.

   C. If inspection only involves a common area and no dwelling units, there is a $15.00 inspection fee. If the inspection involves some or all of the units in the building, there is no additional fee for inspecting the common area.

   D. Reinspection – $50.00 per unit for each scheduled reinspection after the initial inspection.

   E. “No Shows” (scheduled inspections in which the owner, operator, agent, tenant or other representative of the owner is not present to permit the inspector entrance to the premises) – $15.00 for each occurrence.
6. Payment of Fees. Fees shall be paid to the City within thirty (30) days after submittal of statement from the City. Failure to pay the fee due to the City may be considered a nuisance, as set forth in Chapter 50 of this Code of Ordinances, and may be abated under the terms of that chapter, including assessment of the costs against the property for collection in the same manner as the property tax.

159.03 PLANS OF INSPECTION.

1. Preparation of Plans. The Housing Official is authorized and directed to develop and present to the Council for adoption, plans for the inspection of dwelling units subject to the provisions of this chapter, including:

   A. A plan for the regular inspection of all rental units, rooming houses, congregate housing, and independent group residences.

   B. A plan for the inspection of all residential dwellings contained within the City upon receipt of complaints.

2. The plan shall provide that all rental dwelling units will be inspected before July 1, 2003, and that thereafter inspections will be on a biannual basis.

3. Public Notice. Before making inspections pursuant to the plans authorized in subsection 1 of this section, the City shall publish a notice advertising of the plan to inspect.

159.04 ENFORCEMENT.

1. Authority. The Housing Official is authorized and directed to enforce all of the provisions of this Housing Code. For such purposes, the Housing Official shall have the powers of a law enforcement officer.

2. Right of Entry.

   A. Whenever necessary to make an inspection to enforce any of the provisions of this Housing Code, or whenever the Housing Official or the Housing Official’s authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Housing Official may enter such building or premises at all reasonable times to inspect the same to perform any duty imposed upon the Housing Official by this Code, provided that if such building or premises be occupied, the Housing Official shall first present proper credentials and request entry. If such building or premises is unoccupied, the Housing Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Housing Official or the Housing Official’s authorized representative shall have recourse to every remedy provided by law to secure entry.
B. When the Housing Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as provided in this section, to promptly permit entry by the Housing Official for the purpose of inspection and examination pursuant to this Code.

3. Inspections. All buildings or structures within the scope of this Housing Code shall be subject to inspection in accordance with and in the manner provided by this Code and the International Building Code.

4. Requirements Not Covered by Code. Any requirement not specifically covered by this Housing Code but found necessary for the safety, health and general welfare of the occupants of any dwelling shall be determined by the Housing Official subject to appeal to the Housing Code Board of Appeals.

5. Rules and Regulations. The Housing Official is authorized to make, adopt, revise and amend procedural rules and regulations as the Housing Official deems necessary to administer the purposes of this Housing Code.

6. Notice of Violation. Whenever the Housing Official determines that any dwelling, dwelling unit or rooming unit, or the premises surrounding any of these, fails to meet the requirements set forth in this Housing Code or applicable rules and regulations issued pursuant thereto, the Housing Official, in accordance with existing legislation, shall issue a written notice setting forth the alleged failures, and advising the owner, occupant, operator or agent that such failures must be corrected.

7. Service of Notice. The notice prescribed in subsection 6 of this section shall:

A. Be served upon the owner, occupant, operator or agent of the dwelling, dwelling unit or rooming unit personally or by first class or certified mail, addressed to the owner, occupant, operator or agent. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such persons by posting the notice in or about the dwelling, dwelling unit or rooming unit described in the notice, or by causing the notice to be published in a newspaper of general circulation, for a period of 5 consecutive days.

B. Be served upon a resident agent for the receipt of such services of notice designated pursuant to subsection 159.02(3).

8. Reinspection. At the end of the period of time allowed for the correction of any violation alleged, the Housing Official shall reinspect the dwelling, dwelling unit, or rooming unit described in the notice. If upon reinspection, the violations are determined by the Housing Official not to have been corrected, the Housing Official may initiate legal proceedings for the immediate correction of the alleged violations.
9. Emergency Orders. Whenever the Housing Official finds that an emergency exists on any premises, or in any structure or part thereof, or in any defective equipment which requires immediate action to protect the public’s health and safety or that of the occupants thereof, the Housing Official may, with proper notice and service as described in this chapter, issue an order reciting the existence of such an emergency and requiring the vacating of the premises or such action taken as the Housing Official deems necessary to meet such emergency. Notwithstanding other provisions of this Housing Code, such order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order. Any person to whom such order is directed shall comply with the order. Such person may thereafter, upon petition directed to the Housing Code Board of Appeals, be afforded a hearing as prescribed in this Housing Code. Depending upon the findings of the Board at such hearings as to whether the provisions of this Code and the rules and regulations adopted pursuant to the Code have been complied with, the Board shall continue such order or modify or revoke it.

159.05 PENALTIES AND CORRECTIVE ACTIONS.

1. Actions Authorized. The Housing Official shall take any action authorized by this chapter to assure compliance, or to prevent violations of its provisions. Specifically, this may include citation for municipal infractions pursuant to Chapter 3 of this Code of Ordinances. The Housing Official may recommend to the City Attorney the institution of other legal or equitable actions for the enforcement of this chapter.

2. Each Day a Violation. Each act of violation and every day upon which a violation occurs or continues constitutes a separate offense.

3. Applicability. No penalty shall be assessed for a violation of this chapter as for the time that the dwelling unit is vacant and remains vacant. However, no dwelling unit for which an order or notice of an alleged violation of this code has been issued may be reoccupied until such time that the violation has been corrected and a Certificate of Inspected Housing has been issued. In the event that a dwelling or dwelling unit becomes vacant before the violation has been corrected and a Certificate of Inspected Housing has been issued, the Housing Official may post a notice on or about the dwelling or dwelling unit. The notice shall state the described dwelling or dwelling unit contains Housing Code violations and that such dwelling or dwelling unit shall not be occupied until such time that the violations have been corrected and a Certificate of Inspected Housing has been issued. It is the responsibility of the owner or agent to inspect the premises at least every thirty (30) days to make sure the notice is still posted on the property. It is a violation of this Code to remove or deface such notice until a Certificate of Inspected Housing has been issued. It is the responsibility of the owner or agent to notify the Housing Official within 72 hours if the notice is removed prior to the issuance of the Certificate of Inspected Housing.

4. Prosecution. In case there is no prompt compliance with any violation order, the Housing Official may issue a citation pursuant to Section 805.1 through 805.5 of...
the Code of Iowa and request the City Attorney to institute an appropriate action or proceeding at law to exact the penalty provided herein and, in addition, may ask the legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering the person:

A. To restrain, correct, remove the violation or refrain from any further execution of work;

B. To restrain or correct the erection, installation, or alteration of such structure;

C. To require the removal of work in violation;

D. To prevent the occupation or use of the structure, or part of the structure erected, constructed, installed, altered or maintained in violation of the provisions of this Code.

5. Other Remedies. The City Attorney is authorized to pursue any other remedy available in law or equity to correct violations of the provisions of this Housing Code.

159.06 RIGHT TO APPEAL.

1. Housing Code Board of Appeals. In order to provide reasonable variances for existing structures which cannot practicably meet the standards in the Housing Code, but are not unsafe for habitation, there is created a Housing Code Board of Appeals. The Housing Code Board of Appeals shall consist of five (5) residents of the City, appointed by the Council. Three initial members of the Board shall be appointed for three-year terms with subsequent appointment terms being for two years, and two initial members shall be appointed for two-year terms with subsequent appointment terms being for two years. Not less than one nor more than two members of the Board shall be owners of rental dwelling units. Not less than one nor more than two members of the Board shall be tenants of rental dwelling units.

2. Organization. Officers of the Board shall consist of a Chairperson, Vice Chairperson, and Secretary. Officers of the Board shall be elected by the members at the first annual meeting of the Board. The Board shall adopt reasonable rules and regulations for the conduct of its meetings and investigations and shall render all decisions and findings, which shall be made part of the public record.


A. Any person aggrieved by a written notice of the City issued in connection with any alleged violation of this Housing Code or of any applicable rule or regulation issued pursuant to the Housing Code or by any order requiring repair or demolition, may apply in writing to the Housing Code Board of Appeals for a reconsideration of such notice or order provided that such application is made within thirty (30) calendar days after the date of postmark
of notice or proof of service. There shall be a fifty dollar ($50.00) fee paid for filing an appeal.

B. Upon receipt of any appeal filed pursuant to this section, the Housing Official shall present it at the next regular or special meeting of the Board.

C. As soon as practicable after receiving a written appeal, the Board shall hold a public meeting to consider the appeal. The applicant shall be advised in writing of the time and place of such meeting at least four (4) days prior to the date of the meeting. At such meeting, the applicant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, withdrawn or variance granted. The Board may, in its discretion, hold a public hearing on any matter brought before the Board.

D. The Board, by a majority vote, may sustain, modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Board shall observe the following conditions:

(1) The Board may grant an extension of time for the compliance of any notice or order for not more than 18 months subject to appropriate condition and provided that the Board makes specific findings of fact based on evidence relating to the following:

   a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

   b. That such an extension is in harmony with the general purpose and intent of this Housing Code in securing the public health, safety and general welfare.

(2) The Board may grant a variance in a specific case and from a specific provision of this Housing Code subject to appropriate conditions and provided the Board makes specific findings of fact based on evidence relating to the following:

   a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

   b. That the effect of the application of the provisions would be arbitrary in the specific case.

   c. That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships in this arbitrary effect.
d. That such a variance is in harmony with the general purpose and intent of this Housing Code in securing the public health, safety and general welfare.

E. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.

F. Enforcement of any notice or order issued under this Code shall be stayed during the duration of an appeal of the order, which is property and timely filed.

159.07 SCOPE. The requirements and standards set forth in Section 159.08 through 159.21 of this chapter shall apply to all residential dwelling units and their premises in the City.

159.08 ACCESS AND EXITS.

1. Performance Requirement. The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

2. Acceptability Criteria. The dwelling unit shall be usable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire including but not limited to fire stairs or egress through windows.

3. Maintenance of Exits. Exits serving every building, structure or confined area which are used or intended to be used at any time for human occupancy shall be maintained in accordance with this Housing Code.

4. Performance Standards. Sole access to the dwelling unit may not be through another dwelling unit. Alternate means of egress may include:

   A. An openable window if the unit is on the first or second floor or easily accessible to the ground.

   B. A back door opening onto a porch with a stairway leading to the ground.

   C. Such other methods as permitted by this Code of Ordinances.

   D. Required exits shall not be blocked or otherwise unusable.

159.09 ILLUMINATION AND ELECTRICITY.

1. Performance Requirement. Each room shall have adequate or artificial illumination to permit normal indoor activities and to support the health and safety of the occupants. Sufficient electrical sources shall be provided to permit use of essential
electrical appliances while assuring safety from fire. The following performance standards shall be met:

A. Windows must be free of signs of deterioration or missing or broken-out window panes. “Deterioration” means that the window is no longer able to keep out wind, snow or rain; or that broken glass presents a hazard. Window panes must not be dangerously loose. Windows must be able to close and when closed, form a reasonably tight seal to prevent drafts from entering the room.

B. The required light fixtures and outlets must be present and working. Light fixtures must be securely fastened to a ceiling or wall and not movable.

C. The electrical system shall not contain the following:
   (1) Broken or frayed electrical wires.
   (2) Bare metal wires not covered by rubber or plastic insulation.
   (3) Loose or improper wire connections to outlets.
   (4) Light fixtures hanging from electric wire.
   (5) Missing or cracked cover plates on switches or outlets.
   (6) Rubber or plastic coated electrical wiring in a room that is mounted on the surface of a wall or ceiling in a manner that allows it to be broken, cut or damaged in other ways. This standard applies to surface mounted non-metallic sheathed wires including, but not limited to “Romex.”
   (7) Lamp cord used as part of the permanent wiring.
   (8) Electric cords under rugs or other floor covering.
   (9) Outlets or electric appliances located too near where water might splash including, but not limited to, outlets too close to bathtubs.
   (10) Exterior wiring and appliances unsuited to all-weather service.

D. Shared exits in every building, except single family, not new dwellings, shall be illuminated at any time the building is occupied with lights having an intensity of not less than one foot candle at floor level.

E. Every common hall and stairway in every building, not new, other than single-family dwellings, shall be lighted with an illumination of at least one foot candle at floor level. Such illumination shall be provided through the normally traveled stairs and passageways.
2. Acceptability Criteria. Living and sleeping rooms shall include at least one window. A ceiling or wall type light fixture shall be present and working in the bathroom and kitchen area. At least two electric outlets, one of which may be an overhead light shall be present and operable in the living area, kitchen area and each bedroom area.

3. Electrical Equipment. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner. All electrical equipment shall be of an approved type.

   A. Maximum Voltage. Plug fuses and fuse holders shall not be used in circuits exceeding 125 volts between conductors with the exception of circuits supplied by a system having a grounded neutral and having no conductor at over 150 volts to ground.

   B. Markings. Each fuse, fuse holder and adapter shall be marked with its ampere rating.

   C. Hexagonal Configuration. Plug fuses of 15 ampere and lower rating shall be identified by a hexagonal configuration of the window, cap or other prominent part to distinguish them from fuses of higher ampere ratings.

   D. No Live Parts. Plug fuses, fuse holders and adapters shall have no exposed live parts after fuses or fuses and adapters have been installed.

   E. Screw Shell. The screw shell of a plug-type fuse holder shall be connected to the load side of the circuit.

   F. Classification. Plug fuses of the Edison-base type shall be classified at not over 125 volts and 0 to 30 amperes.

   G. Replacement Only. Plug fuses of the Edison-base type shall be used only for replacements in existing installations where there is no evidence of over-fusing or tampering.

   H. Edison-Base Fuse Holders. Fuse holders of the Edison-base type shall be installed only where they are made to accept Type S fuses by the use of adapters.

   I. Type S Fuses. Type S fuses shall be of the plug type and shall comply with all of the following:

      (1) Classification. S fuses shall be classified at not over 125 volts and 9 to 15 amperes, 16 to 20 amperes and 21 to 30 amperes.

      (2) Non-interchangeable. Type S fuses of an ampere classification as specified in paragraph (1) above shall not be interchangeable with a lower ampere classification. They shall be so
designed that they cannot be used in any fuse holder other than a Type S fuse holder or a fuse holder with a Type S adapter inserted.

J. To Fit Edison-Base Fuse Holders. Adapters shall fit Edison-base fuse holders.

K. To Fit Type S Fuses Only. Type S fuse holders and adapters shall be so designed that either the fuse holder itself or the fuse holder with a Type S adapter inserted cannot be used for any fuse other than a Type S fuse.

L. Non-removable. Type S adapters shall be so designed that once inserted in a fuse holder, they cannot be removed.

M. Non-tamperable. Type S fuses, fuse holders, and adapters shall be so designed that tampering, shunting or bridging would be difficult.

N. Interchangeability. Dimensions of Type S fuses, fuse holders and adapters shall be standardized to permit interchangeability regardless of the manufacturer.

4. Exit Illumination. Shared exits in every building, except single-family dwellings, shall be illuminated at any time the building is occupied with lights having an intensity of not less than one foot candle at floor level.

5. Illumination in Public Areas. Every common hall and stairway in every building, other than one-family dwellings, shall be adequately lighted at all times with an illumination of at least one foot candle at floor level. Such illumination shall be provided throughout the normally traveled stairs and passageways.

159.10 FIRE WARNING SYSTEMS. It is the responsibility of the owner, operator or agent of the dwelling unit to provide smoke detectors conforming to 911 of the following for each dwelling unit or rooming unit:

1. Every dwelling unit and every rooming unit in a rooming house used for sleeping purposes shall be provided with smoke detectors.

   A. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

   B. In an efficiency dwelling unit, the detector shall be centrally located on the ceiling of the main room and central corridor.

   C. Where sleeping rooms are on an upper level, the detector shall be placed at the center of the ceiling directly above the stairway.

2. All detectors shall be located in accordance with approved manufacturer’s instructions. When actuated, the detector shall provide an alarm in the dwelling unit or rooming unit.
3. In new construction, required smoke detectors shall receive their primary power from the bonding wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection.

4. Smoke detectors may be battery operated when installed in existing buildings or in buildings without commercial power, or in existing buildings which undergo alterations, repairs or additions.

5. All multiple-unit residential buildings shall be equipped with at least one smoke detector in each corridor, unless that building is equipped with heat detection devices or a sprinkler system with alarms approved by the State Fire Marshal.

It is the responsibility of the tenant to maintain the smoke detectors and to periodically test the smoke detectors in accordance with manufacturer’s instructions.

**159.11 PLUMBING EQUIPMENT.** All plumbing equipment, pipes, and appliances shall be installed and maintained in a safe manner. All plumbing equipment shall be of an approved type. The following performance standards shall apply:

1. Plumbing pipes and fixtures shall be free from major leaks.

2. Pipes shall not be corroded to the point of causing serious and persistent levels of rust or contamination in the drinking water.

3. The hot water heater must be located, equipped and installed in a safe manner. No combustible materials may be piled up against the heater. The hot water heater must have a temperature-pressure relief valve and discharge line directed toward the floor. Hot water heater flues must have adequate clearance from combustible materials. Hot water heater flues must safely vent exhaust gases and have a slope of at least one-quarter inch for each foot of run. The hot water heater must not have any serious leaks.

**159.12 FOOD PREPARATION AND REFUSE DISPOSAL.**

1. Performance Requirement. The dwelling unit shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary short storage where necessary.

2. Acceptability Criteria. The unit shall contain the following equipment in proper operating condition: cooking stove or range and a refrigerator of appropriate size for the unit, supplied by either the owner or the tenant, and a kitchen sink with hot and cold running water. The sink shall drain into an approved public or private system. Adequate space for the storage, preparation and serving of food shall be provided. There shall be adequate facilities and services for the sanitary disposal of...
food wastes and refuse, including facilities for temporary storage where necessary including, but not limited to, garbage cans.

3. Performance Standards. The following performance standards shall be applied:

A. Oven and stove or range must be present and working. Appliances must not contain any hazardous gas hookups. Hot plates are not acceptable substitutes for an oven, stove or range.

B. The refrigerator must maintain a temperature low enough to keep food from spoiling over a reasonable period of time. The refrigerator must have at least some capability for storing frozen foods.

C. The kitchen or kitchen area must have a permanently attached kitchen sink. The sink must have running hot and cold water from the faucets and a property connected drain with gas trap.

D. The unit must have space for food storage which may include pantries, closets containing shelves, a table used for storage or a portable storage cabinet.

E. The unit must have space for food preparation and serving, which may include built-in space such as counter-tops or a table used for food preparation.

F. The unit shall have use of trash cans with covers, garbage chutes, dumpsters or trash bags for temporary storage and disposal of food wastes, garbage and refuse.

159.13 INTERIOR AIR QUALITY.

1. Performance Requirement. The dwelling unit shall be free of pollutants in the air at levels which threaten the health of the occupant.

2. Acceptability Criteria. The dwelling units shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust and other harmful air pollutants. Air circulation shall be adequate throughout the unit. Bathroom areas shall have at least one openable window or other adequate exhaust ventilation.

3. Performance Standards. The following performance standards shall be applied:

A. The unit shall not contain levels of noxious gases such as carbon monoxide, sewer gas, fuel gas, dust which are consistently present in amounts that would constitute a continuing health hazard to the occupants.

B. Bathroom areas must have either an openable window or a working exhaust vent system. Acceptable exhaust ventilation systems include electric
fan vent, either wall or ceiling mounted; gravity flow chimney effect vent pipes; shafts that allow air to escape to the outside without an electric fan; or re-circulating charcoal filter system. If the ventilation system is an electric fan type, the fan must operate when the fan is switched on. Windows and other ventilation systems must vent to the outside, attic or crawlspace.

159.14 SANITARY FACILITIES.

1. Performance Requirement. The dwelling unit shall include its own sanitary facilities which are in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.

2. Acceptability Criteria. A flush toilet in a separate private room, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water shall be present in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

3. Performance Standards. The following performance standards shall be applied:

   A. A flush toilet must be contained within the dwelling unit and available for the exclusive use of the occupants of the unit. Out-houses or facilities shared by occupants of other dwelling units are not acceptable. The toilet must allow for privacy and be closed off by a door.

   B. The toilet must be in working condition. The toilet must have the following:

      (1) Be connected to a water supply and sewer drain.

      (2) Connections, vents and traps in sound condition. Connections, vents and traps must not allow severe leakage of water or escape of gases.

      (3) Toilet must flush without clogging.

   C. The bathroom area must have a working permanently installed wash basin. A kitchen sink is not acceptable, but a wash basin may be located separate from the other bathroom facilities including, but not limited to, in a hallway.

   D. The wash basin must be connected to a system that delivers hot and cold running water; connected to a drain with a gas trap; must not be clogged; and must not have connections that allow severe leakage of water or escape of sewer gases.

   E. The dwelling unit must have a working tub or shower connected to a system that delivers hot and cold running water; must not be clogged; and
must not have connections that allow severe leakage of water or escape of sewer gases.

F. The sanitary facilities must be connected to the City sewer system or a private disposal system meeting the requirements of the Linn County Board of Health.

159.15 SANITARY CONDITIONS.

1. Performance Requirement. The dwelling unit and its equipment shall be in sanitary condition.

2. Acceptability Criteria. The dwelling unit and its equipment shall be free of vermin and rodent infestation.

3. Performance Standards. The dwelling unit and its equipment shall be free from rats and severe infestation by mice or vermin including, but not limited to, roaches, as evidenced by vermin runs, large vermin holes, droppings and numerous settings of vermin poison.

159.16 WATER SUPPLY.

1. Performance Requirement. The water supply shall be free from contamination.

2. Acceptability Criteria. The unit shall be served by an approved public or private sanitary water supply.

3. Performance Standards. The unit must be connected to the City water system or to a private water system meeting the requirements of the Linn County Board of Health.

159.17 LEAD-BASED PAINT.

1. Performance Requirement. The dwelling unit shall be in compliance with HUD lead-based paint regulations, 24 C.F.R., Part 35, issued pursuant to the Lead-based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4846; and the owner shall provide a certification that the dwelling is in accordance with such HUD regulations. If the property was constructed prior to 1950, the family upon occupancy shall be furnished the notice required by HUD lead-based paint regulations and procedures regarding the hazards of lead-based paint poisoning, the symptoms and treatment of lead poisoning, and the precautions to be taken against lead poisoning.

2. Acceptability Criteria. The acceptability criteria are the same as performance requirements.

3. Performance Standards. Exterior surfaces of the dwelling covered with lead-based paint, including walls, stairs, railings, windows and doors, less than four (4) feet in height, must be free from noticeable cracking, scaling, peeling, chipping and loose
paint; or adequately treated or covered to prevent exposure of children to lead-based paint hazards.

159.18 THERMAL ENVIRONMENT.

1. Performance Requirement. The dwelling unit shall have and be capable of maintaining a thermal environment healthy for the human body.

2. Acceptability Criteria. The dwelling unit shall contain safe heating or cooling facilities, or both, which are in proper operating condition and can provide adequate heat or cooling, or both, to each room in the dwelling unit appropriate for the climate to assure a healthy living environment. Unvented room heaters which burn gas, oil or kerosene are unacceptable.

3. Performance Standards. The following performance standards shall be applied:

   A. The heating system must be capable of delivering a constant temperature level of at least 62 degrees Fahrenheit, at a point three feet above the floor and three feet from an exterior wall in bedrooms, living room, kitchen, bathroom and all other rooms used for living.

   B. Unvented fuel burning space heaters are unacceptable.

   C. Oil burning systems must meet all of the following standards:

       (1) Fuel oil tanks must be raised up off of the floor on a stable base to prevent movement.

       (2) The fuel line must have a shut-off valve at the base of the tank to turn off the flow of fuel.

       (3) Any fuel oil line that runs across the floor must be protected to prevent any damage.

       (4) The oil tanks must be vented and filled from the outside of the unit.

   D. Gas burning systems must meet all of the following standards:

       (1) No gas shall be stored on the premises except for units not served by the gas utility, in which case gas must be stored in propane tanks.

       (2) The furnace must have a manual shut-off device.

       (3) There shall be no storage of gasoline cans, gasoline burning engines or gasoline tanks in any living unit.

   E. Combustible material must not be stored around the furnace.
F. Fuel burning heating systems must be properly vented to the outside. The flue pipe and collar around it must be tight against the wall to prevent escape of fumes. There must be adequate clearance between the flue and any combustible materials.

G. The heating system must be properly installed.

H. Heating equipment must not have a heavy build-up of soot and creosote around the chimney or flue or be in a state of disrepair. All masonry chimneys shall have liners.

I. There must be an adequate source of clean return air. Clean return air must be free of any exhaust gases.

J. The unit must be capable of being cooled by either some operable windows or working cooling equipment including, but not limited to, a central fan ventilation system, an evaporative cooling system, room or central air conditioning.

159.19 STRUCTURE AND MATERIALS.

1. Performance Requirement. The dwelling unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment.

2. Acceptability Criteria. Ceilings, walls and floors shall not have any serious defects including, but not limited to, severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weather-tight. The exterior wall structure and exterior wall surface shall not have any serious defects, including but not limited to serious leaning, buckling, sagging, cracks or holes, loose siding or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, and so forth, shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in a safe and operating condition. In the case of a manufactured/mobile home, the home shall be securely anchored by a tie-down device which distributes and transfers the loads imposed by the unit to appropriate ground anchors so as to resist wind, overturning and sliding.

3. Performance Standards. The following performance standards shall be applied:

   A. Ceilings. Ceilings shall not have such serious defects that either a potential exists for structural collapse or that large cracks or holes allow significant drafts to enter the unit. This condition includes but is not limited to severe bulging or buckling; large holes; falling surface materials other than...
paint or paper; loose sections or unkeyed plaster in danger of falling; many missing parts such as ceiling tile.

B. Windows. All windows must be free of signs of severe deterioration or missing or broken out panes. “Severe deterioration” means that the window is no longer able to keep out the wind, snow or rain, or that broken glass presents a hazard. The condition of “severe deterioration” includes but is not limited to dangerously loose, cracked panes; windows that will not close; windows that, when closed, do not form a reasonable tight seal, and allow serious drafts to enter.

C. Floors. Floors shall not have such serious defects that a potential exists for structural collapse or other threats to safety such as tripping. Floors shall not have large cracks or holes that allow substantial drafts or vermin to enter from below the floor. Floors shall be free from buckling or major movement under walking stress. Large sections of the floor shall not be damaged or missing parts including, but not limited to, floor boards.

D. Foundation. The foundation must be sound and free from hazards. The foundation must not contain any of the following features: evidence of major recent settling; large cracks or holes; severe leaning; large sections of crumbling brick, stone or concrete; undermining of footings, walls, posts or slab; major deterioration of wood support members due to water damage or termite or other insect damage.

E. Stairs, Rails and Porches. Stairs, porches, balconies or decks shall not have severe structural defects, including but not limited to broken, rotten or missing steps; absence of a handrail when there are four or more consecutive steps; absence of or insecure railings around a porch or balcony which is thirty (30) inches or more above the ground. Open guardrail and stair railings shall have intermediate rails or an ornamental pattern such that a sphere six inches in diameter cannot pass through. Steps leading to the dwelling unit which are not physically attached to the building, such as steps up a steep lawn from the sidewalk, must meet the performance standards set forth in this section.

F. Roofs and Gutters. Roofs shall be sound and free from hazards, including but not limited to serious buckling or sagging that indicates the potential of structural collapse; large holes or other defects that would allow significant air or water infiltration. Severe exterior defects to the roof may be identified by serious defects within the unit such as buckling or water damage. Gutters and downspouts shall not be deteriorated to the point that they cause significant amounts of water to enter the unit to the point of resulting in deterioration of the interior of the unit, including but not limited to rotting an exterior wall. The absence of gutters is not a violation.
G. Exterior Walls. Exterior walls shall be sound and free from such hazards, including but not limited to, buckling, bowing or leaning. Exterior walls must not contain large cracks or falling or missing pieces of masonry. Exterior walls must not be deteriorated to the point that significant amounts of water or serious drafts are allowed to penetrate the unit to the point of resulting in deterioration of the interior of the unit including, but not limited to, rotting an exterior wall.

H. Chimneys. The chimney must not be seriously leaning or show evidence of deterioration or disintegration of its parts. The chimney must be capable of venting exhaust gases and smoke reasonably well.

I. Interior Stairs and Hallways. Interior stairs and hallways must be free from safety hazards to the occupants, including but not limited to: loose or broken steps or handrails on stairways; missing steps; an accumulation of objects on the stairways or in the hallways to the point of posing a threat of tripping or falling or impeding safe travel; missing steps; ripped, torn, or frayed stair or floor coverings, including but not limited to carpets or rubber mats; or large numbers of missing vertical railings, including but not limited to balustrades missing. A handrail is required on sections of stairs with four or more consecutive steps and on unprotected heights like stairwells.

J. Other Interior Hazards. The interior of the unit shall be free from other interior hazards, including but not limited to: protruding nails or jagged edges of fixtures at a level at which someone could be cut; door partially broken off its hinges; other fixtures in danger of falling, collapsing or deteriorating or otherwise presenting a hazard to the safety or health of the occupants.

K. Elevators. Where elevators are in use, all elevators must have a current inspection certificate.

L. Manufactured/Mobile Home Tie Downs. If the rental unit is a mobile home, it must be securely tied down by the use of a tie-down device, anchor, beam or foundation bolt to prevent overturning, displacement or other serious damage during a windstorm.

159.20 SPACE AND SECURITY.

1. Performance Requirement. The dwelling unit shall afford the family adequate space and security.

2. Acceptability Criteria. A living room, kitchen area and bathroom shall be present; and a dwelling unit shall contain at least one sleeping and living/sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside the unit shall be lockable.
3. Performance Standards. The following performance standards shall be applied:

   A. The dwelling unit must have a kitchen or kitchen area for the preparation and storage of food. It may be either a separate room or an area of a larger room such as a kitchen area in an “efficiency apartment.”

   B. The dwelling unit must have at least one sleeping room for each two occupants of the unit.

   C. The dwelling unit must have one bathroom present in the dwelling unit for the exclusive use of the occupant.

   D. The dwelling unit must have at least one habitable room which is not a kitchen area or bathroom. An “efficiency apartment,” which is a living/sleeping room with a kitchen area designed into it, is considered a living room and is acceptable.

   E. The following fixtures must be lockable: windows and doors that open to the outside or to a common public hall; windows with sills less than six feet off of the ground; windows or doors leading onto a fire escape, porch or other outside places that can be reached from the ground. “Lockable” means a door or window that has a properly working lock, is nailed shut, or is designed not to be opened such as a picture window.

159.21 SITE AND NEIGHBORHOOD.

1. Performance Requirement. The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety and general welfare of the occupant.

2. Acceptability Criteria. The site and neighborhood shall not be subject to serious and adverse environmental conditions, natural or manmade, including but not limited to dangerous walks, steps, instability, flooding, poor drainage, septic tank backups, sewage hazards or mud slides, abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic, excessive accumulation of trash; vermin or rodent infestation, or fire hazards.

3. Performance Standards. The site in and around the dwelling unit must be reasonably free from conditions which seriously and continuously endanger the health and safety of the resident. Such conditions include, but are not limited to:

   A. Other buildings on the property that pose serious hazards, such as dilapidated shed, garage, or other out-buildings with potential for structural collapse.

   B. Evidence of major drainage problems.

   C. Proximity to open sewer.
D. Fire hazards.

E. Accumulations of refuse, including but not limited to junked, abandoned or inoperable vehicles; glass; nails; wire; trash; garbage or any substance generating offensive odors and sights.

F. Noxious weeds and other rank growth on the property.

G. Uncovered hazards, including but not limited to open wells, open cesspools, or open excavations of any kind that present a danger of tripping or falling unless adequately safeguarded.

H. Dangerous walks or steps.

I. Septic tank backups, sewage hazards, or mud slides.

J. Vermin or rodent infestation.

159.22 ROOMING HOUSES.

1. Performance Requirement. Rooming houses shall meet all standards of this Housing Code, except for Section 159.12 concerning food preparation and refuse disposal, Section 159.14 concerning sanitary facilities, Section 159.20 concerning space and security, Section 159.22 concerning rooming houses, and Section 159.24 concerning independent group residences.

2. Other Requirements. In addition, all of the following standards shall apply:

A. The building shall contain and have ready access to a flush toilet which can be used in privacy, a fixed basin with hot and cold running water, and a shower or tub, or both, equipped with hot and cold running water, all in proper operating condition and adequate for personal cleanliness and the disposal of human wastes. These facilities shall utilize an approved public or private disposal system, and shall be sufficient in number so that they need not be shared by more than four occupants.

B. The rooming unit shall afford the occupant adequate space and security. Exterior doors and windows accessible from outside each unit shall be capable of being locked. An emergency exit plan shall be developed and occupants shall be apprised of the details of the plan. Readily accessible fire extinguishers shall be provided throughout the building and smoke detectors shall be provided in every rooming unit and hallway.

159.23 CONGREGATE HOUSING.

1. Performance Requirement. Congregate housing shall meet all standards of this Housing Code, except for Section 159.12 concerning food preparation and refuse disposal, Section 159.20 concerning space and security, Section 159.22 concerning rooming houses, and Section 159.24 concerning independent group residences.
2. Other Requirements. In addition, all of the following standards shall apply:
   A. The unit shall contain a refrigerator of appropriate size.
   B. The sanitary facilities described in Section 159.14 shall be contained within the unit.
   C. The central dining facilities and central kitchen shall be located within the building or housing complex and be accessible to the occupants of the congregate units, and shall contain suitable space and equipment to store, prepare, and serve food in a sanitary manner by a food service or persons other than the occupants and shall be for the primary use of occupants of the congregate units and be sufficient in size to accommodate the occupants. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary including, but not limited to, garbage cans.

159.24 INDEPENDENT GROUP RESIDENCE.

1. Performance Requirement. Independent group residences shall meet all standards of this Housing Code, except for Section 159.12 concerning food preparation and refuse disposal, Section 159.14 concerning sanitary facilities, Section 159.19 concerning structure and materials, Section 159.20 concerning space and security, Section 159.21 concerning site and neighborhood, Section 159.22 concerning rooming houses, and Section 159.23 concerning congregate housing.

2. Other Requirements. In addition, all of the following standards shall apply:
   A. The unit shall contain and have ready access to a flush toilet which can be used in privacy, a fixed basin with hot and cold running water, all in proper operating condition and adequate for personal cleanliness and disposal of human wastes. These facilities shall utilize an approved public or private disposal system and shall be sufficient in number so that they need not be shared by more than four occupants. Those units accommodating occupants with disabilities with wheelchairs or other special equipment shall provide access to all sanitary facilities and shall provide as appropriate to needs to the occupants, basins and toilets of appropriate height; grab bars to toilets, showers or bathtubs or both; shower seats; and adequate space for movement.

   B. The unit shall contain suitable space to store, prepare and serve foods in a sanitary manner. A cooking stove or range, refrigerators of appropriate size and in sufficient quantity for the number of occupants, and a kitchen sink with hot and cold running water shall be present and in proper operating condition. The sink shall drain into an approved private or public system. Adequate space for the storage, preparation and serving of food shall be provided. These shall be adequate facilities and services for the sanitary
disposal of food wastes and refuse including facilities for temporary storage where necessary, including but not limited to garbage cans.

C. The dwelling unit shall afford the family adequate space and security. A living room, kitchen, dining area, bathroom, and other appropriate social unit or recreational community space shall be within the unit and a dwelling unit shall contain at least one sleeping room of appropriate size for each two persons. Exterior doors and windows accessible from outside each unit shall be capable of being locked. An emergency exit plan shall be developed and occupants shall be apprised of the details of the plan. Regular fire inspections shall be conducted by appropriate local officials. Readily accessible first-aid supplies and fire extinguishers shall be provided throughout the unit, smoke detectors shall be provided and emergency phone numbers including, but not limited to, police, ambulance, fire departments, and so forth, shall be provided to each occupant. All emergency and safety features and procedures shall meet applicable State and local standards.

D. The unit shall be structurally sound so as not to pose any threat to the health and safety of the occupants and so as to protect the occupants from the environment. Ceilings, walls and floors shall not have any serious defects including, but not limited to, severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and roof shall be weather-tight. The exterior wall structure and exterior wall surface shall not have any serious defects, including but not limited to serious leaning, buckling, sagging, cracks or holes, loose siding or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, and so forth, shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition. Units accommodating occupants with disabilities with wheelchairs and other special equipment shall not contain architectural barriers which impede access or use, and handrails and ramps shall be provided as appropriate.

E. The site and neighborhood shall be reasonably free from disturbing noises and reverberations and other hazards to the health, safety and general welfare of the occupants, and shall not be subject to serious adverse environmental conditions, natural or manmade, including but not limited to dangerous walks, steps, instability, flooding, poor drainage, septic tank backups, sewage hazards or mud slides; abnormal air pollution, smoke or dust; excessive accumulations of trash, vermin or rodent infestation; or fire hazards. The unit shall be located in a residential setting and be similar in size and appearance to housing generally found in the neighborhood and be within walking distance or accessible via public or available private transportation to medical and other appropriate commercial and community service facilities.

A. A planned program of adequate supportive services appropriate to the needs of the occupants shall be provided on a continual basis by qualified resident assistants residing in the unit or other qualified persons not residing in the unit who will provide such services on a continual, planned basis. Supportive services which are provided within the unit may include the following types of services: counseling, social services which promote physical activity, intellectual stimulation or social motivation, or both; training or assistance with activities of daily living including housekeeping, dressing, personal hygiene, grooming, or both; provision of basic first-aid skills in case of emergencies; supervision of self-administration of medications, diet and nutrition; an assurance that occupants obtain incidental medical care, as needed, by facilitating the making of appointments at and transportation to medical facilities. Supportive services provided within the unit shall not include the provision of continual nursing, medical or psychiatric care.

B. The provision and quality of the planned program of supportive services, including the minimal qualifications, quantity, and working hours of the resident assistants living in the unit or other persons providing continual supportive services, shall be initially determined by the service agency in accordance with the standards established by the State. Compliance with these standards by the service agency shall be regularly monitored throughout the term of the contract by the public housing appropriate State agency or a local authority, other than the service agency providing services designated by the State to establish, maintain and enforce such standards.

C. Written service agreements or agreements approved by the State and in effect between the owner and the service agency or the entities, or both, which provide the necessary supportive service, shall be submitted to the public housing agency with their request for lease approval. The lease shall set forth the owner’s obligation for and means of providing these services. If the lessor provides the supportive services, a service agreement is not required and the provision of these services shall be incorporated into the lease and shall be approved by the State.

4. State Approval. Independent group residences shall be licensed, certified or otherwise approved in writing by the appropriate State agency prior to the execution of the initial contract. This approval shall be reexamined periodically based on a schedule established by the State. To insure the facilities and supportive services are appropriate to the needs of the occupants, the State shall also approve the written service agreements or lease if the provider of such services is the lessor, for each independent group residence.

159.25 CERTIFICATION OF INSPECTED HOUSING. Whenever the Housing Official has inspected or caused to be inspected any dwelling unit and has determined that the dwelling
unit is in compliance with the provisions of this Housing Code, a certificate of inspected housing shall be issued to the owner or the agent of the dwelling unit.

159.26 CONFLICT WITH ORDINANCES. In any case where a provision of this chapter is found to be in conflict with the provision of any zoning, building, fire, safety or health ordinance or code of the City or State existing on the effective date of this chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with a provision of any ordinance or code of the City existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.
CHAPTER 160

FLOODPLAIN MANAGEMENT REGULATIONS

160.01 Statutory Authority, Findings of Fact and Purpose
160.07 Shallow Flooding (Overlay) District (SF)
160.02 General Provisions
160.08 Administration
160.03 Establishment of Zoning (Overlay) Districts
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160.10 Penalties for Violation
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160.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact
   A. The flood hazard areas of the City of Center Point are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

   B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard area by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

   C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Center Point and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.01(2)(A) of this Ordinance with provisions designed to:

   A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

   B. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 GENERAL PROVISIONS

1. Lands to Which Ordinance Apply. The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Center Point shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Floodplain and Shallow Flooding (Overlay) Districts, as established in Section 160.03.

2. Establishment of Official Floodplain Zoning Map. The Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Center Point, Panel 19113C0133D, 19113C0134D, 19113C0141D and 19113C0142D, dated April 5, 2010, which were prepared as part of the Flood Insurance Study for Linn County, is hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

3. Rules for Interpretation of District Boundaries. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Building Inspector shall make the necessary interpretation. The Board of Adjustments shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Building Inspector in the enforcement or administration of this Ordinance.

4. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

5. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

6. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
7. Warning and Disclaimer of Liability. The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Center Point or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

8. Severability. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

160.03 —ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS

The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts; (i) Floodway District (FW), (ii) Floodway Fringe District (FF), (iv) General Floodplain District (FP) and (v) Shallow Flooding District (SF). The boundaries shall be as shown on the Official Floodplain 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 ordinance is granted after due consideration by the Board of Adjustments.

160.04 —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-build 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 160.08(3). 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 Section 160.04 (1) or (2) which are consistent with the provisions of Section 160.04 (3) and the general spirit and purpose of this ordinance.

3. Performance Standards. All Floodway District uses allowed as a Permitted or Conditional Use shall meet the following standards.

A. No use shall be permitted in the Floodway District that would result in any increase in the 100 year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. All uses within the Floodway District shall:
   (1) Be consistent with the need to minimize flood damage.
   (2) Use construction methods and practices that will minimize flood damage.
   (3) Use construction materials and utility equipment that are resistant to flood damage.

C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage 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 or materials or equipment that is 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.

160.05—FLOODWAY FRINGE (OVERLAY) DISTRICT (FF)
1. Permitted Uses. All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

2. Performance Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards.

A. All structures shall:
   (1) Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
   (2) Use construction methods and practices that will minimize flood damage
   (3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential buildings – All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

   All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

C. Non-residential buildings – All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures:
   (1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
(a) A minimum of two 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.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures 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.

E. Factory-built homes:

(1) All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

(2) All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

F. Utility and Sanitary Systems:

(1) 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.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage or materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (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 Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater that five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

K. Accessory Structures
   (1) Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
      (a) The structure shall not be used for human habitation.
      (b) The structure shall be designed to have low flood damage potential.
      (c) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
      (d) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
      (e) The structure’s service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.
   (2) Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles
(1) Recreational vehicles are exempt from the requirements of Section 160.05(2)(b) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
   (a) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
   (b) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.05(2)(b) of this Ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.06 GENERAL FLOODPLAIN (OVERLAY) DISTRICT (FP)

1. Permitted Uses. The following uses shall be permitted within the General Floodplain 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, airport landing strips.
   C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
   D. Residential uses such as lawns, gardens, parking areas and play areas.

2. Conditional Uses

Any uses which involve placement of structures, factory-built homes, fill or other obstructions, 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 Adjustments as provided for in Section 160.08(3). All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant shall be responsible for providing the
Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards

A. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District Section 160.04.

B. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District Section 160.05.

160.07 SHALLOW FLOODING (OVERLAY) DISTRICT (SF)

1. Permitted Uses. All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District.

2. Performance Standards. 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:

   A. 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 FIRM (or a minimum of 2.0 ft. if no number is specified) above the highest natural grade adjacent to the structure.

   B. 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 FIRM.

160.08 ADMINISTRATION

1. Appointment, Duties and Responsibilities of Zoning Administrator

A. The City Administrator or designee is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

   (1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

   (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local
governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

(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 ordinance and advise the City Council of potential conflict.

2. Floodplain Development Permit

A. Permit Required – A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit – Application shall be made on forms furnished by the Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, 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.
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(4) Elevation of the 100-year 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 Ordinance.

C. Action on Permit Application – The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans – Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangements or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. 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 Ordinance, prior to the use or occupancy of any structure.

3. Conditional Uses, Appeals and Variances

A. Appointment and Duties of Board of Adjustment – The Board of Adjustment shall hear and decide (i) applications for Conditional Uses upon which the Board is authorized to pass under this ordinance, (ii) appeals, and (iii) requests for variances to the provisions of this ordinance, and shall take any other action which is required of the Board.

B. 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 to the Board of Adjustment.
C. 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 ordinance, 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.

D. Variance - The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

1. 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.

2. 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.

3. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, 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.

5. All variances granted shall have the concurrence of approval of the Department of Natural Resources.
(1) 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.

(2) 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 ordinance, 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 ordinance and may prescribe such conditions as contained in Section 160.08(3)(E)(2)(b).

(a) Factors Upon Which the Decision of the BOARD OF APPEALS Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

(i) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(ii) The danger that materials may be swept on to other land or downstream to the injury of others.

(iii) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(iv) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(v) The importance of the services provided by the proposed facility to the City.
(vi) The requirements of the facility for a floodplain location.

(vii) The availability of alternative locations not subject to flooding for the proposed use.

(viii) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(ix) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(x) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(xi) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(xii) 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.

(xiii) Such other factors which are relevant to the purpose of this Ordinance.

(b) Conditions Attached to Variances – Upon consideration of the factors listed above, the Board of Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

(i) Modification of waste disposal and water supply facilities.

(ii) Limitation of periods of use and operation.

(iii) Imposition of operational controls, sureties, and deed restrictions.

(iv) 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 Ordinance.
(v) Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board 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.

E. 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 the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

160.09 NONCONFORMING USES

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:

   A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.

   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 (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance.

2. Except as provided in Section 160.09(1)(B), any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

160.10 PENALTIES FOR VIOLATION

Violations of the provisions of this Ordinance 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 misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500.00 (five hundred dollars) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a
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separate offense. Nothing herein contained prevent the City of Center Point from taking such other lawful action as is necessary to prevent or remedy violation.

160.11 AMENDMENTS

The regulations and standards set forth in this Ordinance 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.

160.12 DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it’s most reasonable application.

1. BASE FLOOD – The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
2. BASEMENT – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include “minor projects” or “Routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
4. EXISTING CONSTRUCTION – Any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as “existing structure”.
5. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
6. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION – The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. FACTORY-BUILT HOME – 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 Ordinance factory-built homes include mobile homes, manufacture 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.

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8. FACTORY-BUILT HOME PARK – A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. FLOOD – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. FLOOD ELEVATION – The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
11. FLOOD INSURANCE RATE MAP (FIRM) – The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. FLOODPLAIN – Any land area susceptible to being inundated by water as a result of a flood.
13. FLOODPLAIN MANAGEMENT – An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
14. FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. FLOODWAY – The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. FLOODWAY FRINGE – Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. HISTORIC STRUCTURE – Any structure that is:
   a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
   b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
   c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
   d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.
18. LOWEST FLOOR – 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 160.06(2)(D)(1) of this Ordinance and
b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
d. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed are satisfied criteria A, B, C, and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. MINOR PROJECTS – Small development activities (except for filling, grading and excavating) valued at less than $500.

20. NEW CONSTRUCTION – (new buildings, factory-built home parks) – Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

21. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.

22. ONE HUNDRED (100) YEAR FLOOD – A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, in the average, will be equaled or exceeded at least once every one hundred (100) years.

23. RECREATIONAL VEHICLE – 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.

24. ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES – Repairs necessary to keep a structure in a safe habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
   a. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
   b. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
   c. Basement sealing;
   d. Repairing or replacing damaged or broken window panes;
e. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. SPECIAL FLOOD HAZARD AREA – The land within a community subject to the “100-year flood”. This land is identified as Zone A on the community’s Flood Insurance Rate Map.

26. 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.

27. STRUCTURE- Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

28. SUBSTANTIAL DAMAGE- Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

29. SUBSTANTIAL IMPROVEMENT- 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 (50) percent of the market values of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.

    The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any
alteration of an “historic structure”, provided the alteration will not preclude the structure’s designation as an “historic structure”.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. VARIANCE- A grant of relief by a community from the terms of the floodplain management regulations.

31. VIOLATION- The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.
CHAPTER 162
DRIVEWAYS

162.01 Purpose

The purpose of this ordinance is to enhance driveways and improvements thereof, to place the maintenance, repair, replacement or reconstruction of driveways upon the abutting property owner and to minimize the liability of the city.

162.02 Definitions

For use in the chapter, the following terms are defined:

1. “Defective Driveway” means any driveway exhibiting one or more of the following characteristics:
   A. Vertical separations equal to three-fourths (3/4) inch or more.
   B. Horizontal separations equal to one-half (1/2) inch or more.
   C. Holes or depressions equal to three-fourths (3/4) inch or more at least four (4) inches in diameter.
   D. Spalling over fifty percent (50%) of a driveway with one or more depressions equal to one-half (1/2) inch or more.
   E. Spalling over less than fifty percent (50%) of a driveway with one or more depressions equal to three-fourths (3/4) inch or more.
   F. A driveway with any part thereof missing full depth.
   G. A change in grade equal to and greater than three-fourths (3/4) inch.

2. “Driveway” means all permanent residential or commercial access from private property to the streets within the incorporated limits of the city.
3. “Driveway Improvement” means the construction, reconstruction, repair, replacement or removal, of a driveway and or excavating, filling, or depositing of material in the public right-of-way in connection therewith. A driveway improvement does not imply the normal maintenance of an existing driveway such as re-rocking, however, a driveway improvement does imply the upgrading from an existing rock or seal-coated driveway to a Portland cement or asphalt surfaced driveway.

162.03 DRIVEWAY CONSTRUCTION. The driveway construction and improvements shall be at no cost to the city. Driveways and driveway improvements shall conform to the design and construction standards. As established by the city. Any repair of damage caused to existing streets resulting from a driveway improvement shall be the responsibility of the property owner.

162.04 DRIVEWAY SURFACES. Where the driveway is accessing a street surfaced with Portland cement or asphaltic concrete, the driveway improvement shall be surfaced with Portland cement or asphaltic concrete in accordance with city standards. Where the driveway is accessing a street not surfaced with Portland cement or asphaltic concrete, the driveway improvement shall be surfaced with a minimum of six (6) inches of compacted Class A road stone.

1. Portland Cement Surfaces. Where driveways are to be paved with Portland cement, the driveway slab shall be constructed of Portland cement conforming to the Iowa Department of Transportation C-3 or M-3 mix with a non-reinforced thickness of 6 inches or a reinforced thickness of 4 inches. Reinforcing shall mean the use of six (6) inch by six (6) inch welded wire, or better, installed into the concrete slab. Fiberglass additive is not considered as reinforcing. Before driveway slab is paved, the sub-grade shall be compacted, free of debris and vegetation. All paved driveways shall have one inch preformed expansion at front and back of sidewalks and at the curb.

2. Asphalt surfaces. Where driveways are to be asphalted, the driveway shall be surfaced with six (6) inches of compacted Class A road stone and then topped with a minimum of three (3) inches of Type B asphaltic concrete.

3. Alternative Driveway Surfaces. Alternative driveway surface requirements may be required upon the recommendation of the city engineer. Property owners or agents of the property owner requesting the use of Alternative driveway surfaces requirements must submit the proposal to the city for review by the city engineer prior to the alternative driveway surface usage. The engineer shall review the request and based upon the engineer’s recommendation the alternative driveway surface shall be denied or approved for usage.

162.05 DRIVEWAY ACCESS. All driveway accesses shall be at right angles to the street whenever practical and driveway access onto major streets shall be avoided whenever possible. A single driveway access shall not service more than two (2) parcels of land or lots.

162.06 DRIVEWAY GRADES. All permanent driveways shall, unless a special grade is established by ordinance, conform to the established grade of that part of the street upon which the driveway is located and shall be elevated above such established grade.
approximately one-fourth (1/4) inch for every one foot of the distance from the curb or the street, unless such elevation is, under existing conditions, impractical.

**162.07 TEMPORARY DRIVEWAYS.** Temporary driveways shall be allowed only upon the approval of the public works superintendent and the installation and removal of the temporary driveways shall be at no cost to the city. The temporary driveway shall be constructed and surfaced in order to provide sufficient and adequate support for the intended purpose of the temporary driveway. Hard surface / culvert requirements and their respective inspections specified herein may be waived upon the approval of the public works superintendent. The grade of the temporary driveway shall conform to the surrounding ground. No temporary driveway shall exist longer than a period of six (6) months unless permission has been obtained from the public works superintendent.

**162.08 DRIVEWAY CULVERT AND OPEN DITCH DRIVEWAYS.** Where driveway culverts are deemed necessary in open ditch street right-of-ways, the driveway culvert shall conform to the following minimum requirements:

1. All culverts shall be ADS Dual wall N-12 smooth inner surface pipe or approved comparable.

2. The minimum size of the driveway culvert shall be twelve (12) inch inside diameter, with the following exceptions:

   A. If there is a larger diameter culvert upstream of the driveway culvert, the driveway culvert shall be at least as large as the upstream culvert.

   B. The public works superintendent may require that a larger diameter driveway culvert be installed based on the recommendations of the city engineer.

   C. If the driveway access is on a road that is not in the jurisdiction of the City of Center Point, the size of the driveway culvert shall be as directed by the appropriate jurisdiction.

   D. If the property owner demonstrates, by the way of certified calculations of a professional engineer, that a small diameter driveway culvert is capable of conveying storm water runoff from a 50-year storm event, the public works superintendent may allow a smaller diameter driveway culvert. The driveway culvert should not cause the storm water flowing in the ditch to overtop the ditch or rise a level within six (6) inches of the edge of the pavement elevation.

3. Where the roadway speed limits are above 45 miles per hour, the minimum length of the driveway culvert shall be sufficient to allow grading along the sides of the driveway. The minimum culvert length shall be extended to provide a maximum slope of 25% (4 horizontal to 1 vertical) from the driveway surface to the flow line of the ditch on either side of the driveway.

4. Driveway culverts shall be constructed to the slope of the existing ditch, unless the public works superintendent allows a different slope.
5. The public works superintendent must inspect the culvert placement. This inspection shall be performed before surfacing of the driveway, will be documented on the inspection record and will be required before an occupancy permit is granted.

6. All open ditch driveways, which access rural cross-section public right-of-ways within the city, will contain either a drainage swale or an approved culvert. The public works superintendent must approve the use of a drainage swale. Driveway culverts shall be in accordance with specifications numbered 1 – 5 of this section.

7. Modifying the grade of the open ditch from that of the final inspection of improvements, including installation of small diameter tubing or the addition of fill material, will not be allowed without the prior written approval of the public works superintendent. Removal of these materials may be performed by the city within the right-of-way without the approval or notification of the adjacent property owner.

8. Sump pumps or downspouts shall not discharge into the right-of-way open ditches closer than ten (10) feet to the side property line. The practice of pumping water into ditches may cause downstream ditches to become saturated for extended periods of time.

9. Grass bottom open ditches, which have slopes of about 1%, may retain water or become saturated during periods of rainfall. Because of the lack of slope, saturation and puddling will not be considered unusual or unacceptable within these ditches.

10. Problems caused by violations of the section will be corrected and the cost may be assessed to the adjacent property owner.

11. If the finding, order of decision of the public works superintendent made in pursuance of the provisions of this section are not acceptable to any person, such person shall have the right to appeal to the city council.

162.09 DRIVEWAY WIDTH.

1. Except as noted, the maximum driveway width is not to exceed thirty-four (34) feet for residential garages having three (3) stalls or more. Maximum width is as measured along the street side of the sidewalk line. If no sidewalk line has been established, the measurement shall be at the property line.

2. Curb openings shall be in accordance to all the provisions of this chapter and other city rules and regulations as established.

162.10 DRIVEWAY LOCATION.

1. No portion of a driveway, except the curb return, shall be constructed less than twenty (20) feet from an intersection, seventy-five (75) feet from a railroad crossing, and in no case closer than three (3) feet to a property line as extended.
2. No driveway shall be located and constructed which encroaches on the neighboring property line as extended to the street. The minimum driveway flare radius where the driveway meets the street shall be three (3) feet. If the driveway flare is proposed to be greater than the three (3) foot offset from the property line dimension, then the driveway shall be offset from the property line a distance equal to the driveway flare dimension.

3. Whenever possible, a single driveway shall access a single parcel of land and there shall not be more than two (2) driveways accessing a single of double frontage lot. If more than a single driveway is to access a street front for a single parcel of land, a distance of thirty (30) feet between driveways shall be maintained and shall have the approval of the public works superintendent. The public works superintendent shall have the authority to refuse a second driveway where it has been determined to be a detriment to snow removal and street maintenance.

162.11 DRIVEWAY MAINTENANCE. It shall be the responsibility of the abutting property owner to repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken and defective driveways and to maintain in a safe and hazard-free condition, any driveway within the public right-of-way inside the curb lines or traveled portion of a public street.

162.12 FAILURE TO MAINTAIN. If the abutting property owner does not maintain or repair defective driveways as required and action is brought against the city for personnel injuries alleged to have been caused by it negligence, the city may notify, in writing, any person whose negligence it claims the injury caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and the location of the court where the action is pending, a brief statement of 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 injury or damage, as to liability of the city to the plaintiff in the named action, and 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 expenses incurred by the city in the suit.

162.13 PERMIT REQUIRED. No person shall remove, reconstruct, or install a driveway unless such person has obtained a permit from the city and has agreed in writing that said removal, reconstruction, or installation complies with all ordinances and requirements of the city for such work. The application therefore shall be in writing and shall designate the location of the driveway on a lot or parcel of land, and the name of the owner thereof, and no permit shall be issued by the city, if said driveway is in violation of the rules and regulations of the city or, in the engineer’s judgment, it is not advisable to do so, and no permit so issued shall be valid for a period of more than thirty (30) days, unless the permit was issued in conjunction with other construction. Failure to obtain said permit prior to starting construction shall be subject to a penalty by charging an amount equal to twice the normal permit fee.

162.14 FEE FOR PERMIT. Before any permit for a driveway is issued, the person who makes the application shall pay a twenty dollar ($20) permit fee for driveway repairs or replacements not affecting the paved portion of the right-of-way, or a thirty dollar ($30) fee shall be paid if
Repair or replacement of a driveway involves disturbances of a street or a curb. If the applicant intends to install said driveway in connection with other construction on the premises for which a building permit has been issued and said fee has been charged.

162.15 PERMIT PREREQUISITE. Prior to any person cutting any curb on any street in the city, there shall be obtained, a written permit from the city, which permit shall be issued, only on the condition that the curb cutting is done in accordance of the provision of this chapter and with the rules and regulations of the city. No permit shall be issued for cutting the curb unless the driveway extending from the street to private property shall be hard surfaced in accordance to city standards.

162.16 INDEMNIFICATION. Any person securing a permit as required shall agree to hold the city free from all injuries, free from all liability for damages on account of injuries received by anyone through the negligence of such person or his agents or employees in making the driveway improvements, or by reason of such person’s failure to guard the premises.

162.17 INSPECTIONS. The building inspector, or such other person as may be designated by the city council, shall inspect driveway improvements in accordance with city standards. The city, after twenty-four (24) hours prior notification, shall perform an inspection of the driveway base prior to hard surface application and, if a driveway culvert is required, the newly installed culvert prior to the completed backfilling and surfacing over the culvert. If installation is in conjunction with other construction on the premises for which a building permit has been issued, approval of the driveway and culvert installation is required before an occupancy permit is granted.

162.18 SNOW REMOVAL. This section shall not be construed to apply to or limit the normal snow plowing operations performed by the City of Center Point. The snow plowing operations performed by the city are exempt from the application of the section.

1. It is the responsibility of the property owner to remove from the property owner’s driveway. It is unlawful for any property owner or person to remove or allow to be removed from his or her property, snow and or ice accumulations and to place such accumulations in the traveled portion of street or on the private property of another, without consent of the property owner thereof.

2. It is unlawful for any property owner, or person in possession, to remove or allow to be removed from his or her property, snow and or ice accumulations in such a way to deposit said accumulations on public property or public right-of-way.

162.19 VARIANCES. Except as to the width of a driveway, variances from the provisions of this ordinance for construction, reconstruction, repair, replacement or removal of an existing or proposed driveway may be granted by the Building Official or designee if after review the building official determines:

1. The variance or modification will not create an increased hazard.

2. The variance will be in the public interest.
3. The variance will not impede traffic flow in the area.

4. The variance will not conflict with the provisions of the City of Center Point Code of Ordinances.

Decisions of the Building Official or designee may be appealed to the City of Center Point Zoning Board of Adjustment.
CHAPTER 165
ZONING REGULATIONS

EDITOR’S NOTE

Ordinance No. 366, Zoning Regulations, adopted August 8, 2000, and amendments thereto are contained in the Appendix of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Ordinance No. 366.

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 TITLE. This chapter shall be known as the Subdivision Ordinance of the City of Center Point, Iowa.

166.02 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the comprehensive plan, and to promote the public health, safety and general welfare of the citizens of the City.

166.03 DEFINITIONS. For the purposes of this chapter, the following words are defined.

1. “Alley” means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
2. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

3. “City Engineer” means a professional engineer registered in the State of Iowa designated as City Engineer by the Council or approved by the Council.

4. “Commission” means the Planning and Zoning Commission of the City.

5. “Comprehensive Plan” means the general plan for the development of the community, and which plan has been adopted by the Council. Such Comprehensive Plan shall include any part of such plan separately adopted, and any amendments to such plan or parts thereof.

6. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turnaround.

7. “Easement” means an authorization by a property owner for another to use a designated part of said owner’s property for a specified purpose.

8. “Flood hazard area” means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a 100-year flood, as designated by the Iowa Department of Natural Resources or the Federal Insurance Administration.

9. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one foot.

10. “Improvements” means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainageways, and other public works and appurtenances.

11. “Lot” means a portion of a final platted subdivision.

12. “Lot, corner” means a lot situated at the intersection of two (2) streets.

13. “Lot, double frontage” means any lot which is not a corner lot which abuts two (2) streets.

14. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

15. “Plat” means a map, drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, which the subdivider submits for approval and intends to record in final form.

16. “Resubdivision” means any subdivision of land which has been previously included in a recorded plat. In appropriate context, it may be a verb referring to the act of preparing a plat of previously subdivided land.
17. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

18. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another and not intended to provide access to abutting property.

19. “Street, major” means an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the City to another.

20. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.

21. “Subdivision” means the division of land into two (2) or more parts, for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to the process of subdividing or to land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots, where such sale or exchange does not create any additional lots and where the land sold or exchanged constitutes less than fifty percent (50%) of the area of the enlarged lot after such transfer, shall not be considered a subdivision.

22. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, storm water or communication systems.

166.04 APPLICATION. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two (2) or more parts, 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 of the corporate limits of the City 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.

166.05 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City or within two (2) miles of the corporate limits of the City shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded and evidence thereof filed with the Clerk within such 30 days.

166.06 FEES ESTABLISHED. The Council shall, from time to time, at its discretion, establish by resolution fees for the site plans and review of plats. No site plan or plat for any subdivision or resubdivision shall be considered filed with the Clerk, unless and until said plat
is accompanied by the fee, as established by resolution of the Council, and as required by this chapter.

**166.07 PENALTIES.** Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the Council and recorded as required by law, shall be charged with a municipal infraction for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City’s right to any other remedies available to the City for the enforcement of this chapter.

**166.08 BUILDING PERMIT TO BE DENIED.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter and until the improvements required by this chapter have been accepted by the City.

**166.09 IMPROVEMENTS REQUIRED.** The subdivider shall, at his or her expense, install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City and as shown on the approved preliminary plat. All improvements shall be inspected by the City Engineer or a designated representative to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare:

1. **Streets.** The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets. All streets or alleys shall be of such width and shall be so constructed as to meet the standards of the City. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City.

2. **Sanitary Sewer System.** The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider’s expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, manholes and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City’s sanitary sewers. The sanitary sewer system shall be constructed in accordance with the plans and specifications of the City and at the sewer grades as established by the City. Under some circumstances the City may require, as a condition for approval of the plat,
installation of a sanitary sewer that is larger than necessary to meet the needs of the
platted area, but necessary to complete the needs of the City sanitary sewer system
as it relates to both the area being platted and other areas. In such event, the City will
pay the subdivider the difference in cost of pipe and installation between the larger
sewer and the diameter of sewer reasonable to meet the foreseeable needs of the
area. The above mentioned facilities for the collection and disposal of sanitary sewage
from the platted area shall, upon final approval and acceptance by the City, become
the property of the City.

3. Storm Sewer System. The subdivider of the land being platted shall install and
construct a storm sewer system adequate to serve the area, including anticipated
extension of use to serve additional areas. The storm sewer system shall be
constructed in accordance with the plans and specifications of the City and at sewer
grades established by the City. For land not requiring storm sewer, all owners of
subdivisions shall submit a certified or cashier’s check payable to the City no later than
the time of submission of the final plat, in an amount per acre to be established by the
Council and as required by this chapter, for all land included in the final plat of the
subdivision, said area to be computed to the nearest one-tenth of an acre. Under
some circumstances the City may require, as a condition for approval of the plat,
installation of a storm sewer system that is larger than necessary to meet the needs
of the platted area, but necessary to complete the City storm sewer system as it relates
to both the area being platted and other areas. In such event, the City will pay the
subdivider the difference in cost of pipe and installation between the larger sewer and
the diameter of sewer reasonable to meet the foreseeable needs of the area. The
sewers shall, upon inspection, approval and acceptance by the City, become the
property of the City.

4. Water Main System. The subdivider of the land being platted shall install and
construct a water main system to adequately serve all lots or parcels of land within
the platted area, with due regard to the present and reasonably foreseeable needs of
the entire area, and shall connect the same to the City’s existing water mains. The
water main systems shall be constructed in accordance with the plans and
specifications of the City. Under some circumstances the City may require, as a
condition for approval of the plat, installation of a water main that is larger than
necessary to meet the needs of the platted area, but necessary to complete the needs
of the City water distribution system as it relates to both the area being platted and
other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main
reasonable to meet the foreseeable needs of the area. The water mains shall, upon
inspection, approval and acceptance by the City, become the property of the City.

5. Other Improvements. The owner and subdivider of the land being platted
shall be responsible for the installation of sidewalks within the street area; the
installation of walkways as necessary; grading, seeding or sodding of all lots; the
planting of any required trees in the parking; the installation of streets signs, and the
provision of street lighting. All such improvements shall be under the direction of the City Engineer or Director of the Electric Utility, as appropriate.


A. Thresholds:

(1) Storm water management will be required for all new subdivisions and resubdivisions of residential, commercial and industrial developments larger than one acre in size.

(2) In developments where the natural drainage is divided into more than one watershed, the individual watershed drainage areas larger than one acre must provide storm water management. If storm water management is not required, the designer must still account for the storm water runoff, including any required easements from downgrade property owners, to ensure public safety and not create property damage.

(3) Storm water management facilities may not be required if it can be shown by a Civil Engineer that the storm water runoff from a development, up to and including 100-year storm, can be piped or conveyed in its entirety directly to a watercourse with adequate capacity to store or convey said waters without damage to public or private property.

(4) A storm water management fee may be assessed to developments excluded from the storm water management requirements by this subsection if established by the City.

B. Detention Requirements:

(1) New developments which require storm water management shall be required to detain the difference in the volume between the five-year undeveloped storm and the 100-year developed storm events for their development site. For redevelopment of a site that does not presently have storm water management, the undeveloped condition shall be calculated assuming pasture conditions.

(2) The maximum release rate for detention calculations shall be the five-year undeveloped storm.

C. Methodology:

(1) The SCS TR-55 computerized runoff volume program or other technically proven method, shall be used to determine the volume of runoff which must be detained.
(2) The results of these calculations shall be submitted to the City by a Civil Engineer and shall include all of the individual parameters that the designer inputs into the program.

D. Locational Criteria:

(1) Regional storm water management facilities are encouraged.

(2) Regional storm water facilities which are of sufficient size may be deeded to and maintained by the City. The conditions for City ownership will be reviewed on a case-by-case basis.

E. Design Considerations:

(1) Dry-bottomed detention facilities shall be oversized by 5% to help offset anticipated sedimentation prior to total watershed development.

(2) Maximum side slopes of dry-bottom facilities shall not exceed 3.5:1.

(3) Subsurface drainage lines in the detention facility are required to convey low flows from inlet points to the outlet structure. Said drainage lines shall be slotted and bedded in freely draining aggregate. Alternate methods of subsurface drainage may be proposed.

166.10 EASEMENTS REQUIRED.

1. Public Utilities. Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than fifteen (15) feet in width shall be granted by the owner along the rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easement.

2. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.

3. Along Lewis Access Road and Other Arterial Streets. Easements for roadway purposes of a width to be determined by the Council shall be required.
166.11 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City proper maintenance bonds, satisfactory to the City, so as to insure that for a period of two (2) years from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair.

166.12 ALTERNATIVE SYSTEMS FOR SEWER OR WATER. Where connection to the City sewer or water system cannot reasonably be made, the City may approve alternate facilities for the distribution of water or the collection and disposal of sanitary wastes. Such alternate systems shall be designed to fully protect the public health, safety and welfare and shall meet all requirements of granting approval of such alternate systems, the City shall require that the owner and subdivider provide to the City a waiver of assessment protest or such other legally binding documents necessary to protect the City from the expense of the subsequent installation of sewer or water facilities.

166.13 STANDARDS PRESCRIBED. The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety and general welfare.

166.14 LAND SUITABILITY. No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify or withdraw its determination regarding such unsuitability.

166.15 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the zoning ordinance for the zone in which the lot is located. Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City:

1. Included within individual lots in the subdivision, subject to the limitations of this section.

2. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.

3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.
166.16 PLAT TO CONFORM TO COMPREHENSIVE PLAN. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the comprehensive plan of the City, provided such plan has been adopted, and shall conform to such other plans, including but not limited to a major street plan, sanitary sewer system plan or a parks and open space plan, provided such plans have been adopted by the City.

166.17 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to the standards set forth in this chapter, the engineer shall from time to time prepare and the Council shall from time to time adopt by resolution technical standards for the public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of public improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets or other improvements and the extent and character of the area served by the improvements. Upon adoption by the Council by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

166.18 STREET STANDARDS. The following standards shall apply to all streets to be located within the subdivision:

1. Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets into adjoining unplatted areas. Where a plat encompasses the location for a major street proposed in the comprehensive plan or major street plan, the plat shall provide for such major street.

2. Street grades shall align to existing streets and all grades for streets shall be as approved by the City.

3. Arterial streets shall be located so as not to require direct access from the arterial street to abutting lots.

4. Street right-of-way widths and pavement widths shall be as specified in the comprehensive plan, major streets plan or technical standards for public improvements.

5. Half streets are prohibited except where an existing platted half street abuts the subdivision, a platted half street to complete the street shall be required.

6. Minor streets should be designed to discourage through traffic while safely connecting to major collector or arterial streets.

7. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited, except where topography or other physical conditions make such jogs unavoidable.

8. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty degrees (60°).
9. At intersections of major streets and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

10. Dead-end streets are prohibited, except where a street is planned to continue past the subdivider’s property, a temporary dead end may be allowed.

11. Streets which connect with other streets, or loop streets, are preferable for maintenance, fire protection and circulation, but cul-de-sacs may be permitted. Cul-de-sacs shall not exceed six hundred (600) feet in length and shall be provided with a minimum right-of-way diameter of one hundred (100) feet in the residential zone and one hundred twenty (120) feet in the commercial and industrial zones.

12. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead-end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

13. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged so as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Council, be made a requirement of the plat.

14. Streets which are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the Council.

15. Private streets, not dedicated to the City, shall be avoided. The Council may approve a private street where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

16. The Council shall require the developer to submit a traffic impact study prior to approval of a preliminary plat containing any proposed streets intersecting with Lewis Access Road. The study must be conducted by a firm approved by the Council and must address the needs for left or right turn lanes and improvements to side roads to keep the level of service the same as predevelopment conditions during peak traffic. Installation of left or right turn lanes by the developer shall be a minimum requirement for access points off Lewis Access Road.

17. Offset intersections shall be discouraged but shall be prohibited along Lewis Access Road.
18. Access points on Lewis Access Road shall be limited to a minimum distance of 660 feet apart from the I-380 Interchange to the entry road at 4204 Lewis Access Road.

166.19 BLOCK AND LOT STANDARDS. The following standards shall apply to the layout of blocks and lots in all subdivisions and, to the extent possible, in all resubdivisions:

1. No residential block shall be longer than 1,320 feet or shorter than three hundred (300) feet measured from street line to street line. The width of blocks shall be arranged so as to allow two tiers of lots, with utility easements.

2. In blocks over 750 feet in length, the Council may require a public way or an easement at least ten feet in width, at or near the center of the block, for use by pedestrians.

3. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended and to meet the parking and other requirements for such uses contained in the Zoning Ordinance.

4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to the topography and surrounding land uses.

5. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zone in which the lot is located.

6. All lots shall abut on a public street or upon an approved private street, with a minimum frontage of at least 60 feet measured as a straight line between the two front lot corners, except cul-de-sacs’ minimum width shall be 50 feet or 60 feet at the building line.

7. Unless unavoidable, lots shall not front or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

8. All lot lines shall be at right angles to straight street lines or radial to curved street lines except where, in the judgment of the Council, a variation to this provision will provide a better street and lot layout.

9. Corner lot shall have sufficient extra width to permit the required front yard setback as specified in the Zoning Ordinance, oriented to either street.

10. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on a minor street.

11. Any lot not to be served by a sanitary sewage system shall have sufficient area to allow for a satisfactory drainfield. No subdivision to be served by septic systems shall be approved by the Council until percolation tests have been performed and the results of said tests have been provided to and approved by the City Engineer.
166.20 PUBLIC SERVICE AREAS, PARKS AND OPEN SPACE. All residential developments should be designed so that adequate open spaces and sites for public uses may be properly located and preserved as the community develops. In order that the cost of providing parks, playgrounds and recreational facilities and sites necessary to serve the additional families brought into the community by subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision development, the following provisions shall apply to all future residential developments or subdivisions or planned unit developments greater than ½ acre in size within the City.

1. Within the corporate limits of the City, where it is determined by the Council that open space and recreational areas are necessary and required and where feasible and compatible with the comprehensive plan for development of the community, the subdivider or developer shall provide and dedicate to the public adequate land to provide for said public service areas, open space and recreational needs of the subdivision or development. Provided, however, said open space and recreational facilities may be reserved and held by private persons or homeowners’ associations or like entities under a planned unit development (P.U.D.) if same satisfies the requirements of this chapter. Provided, further, however, should open space and recreational facilities be required of a P.U.D. development in another ordinance, law or statute with minimum areas which are greater than those provided herein, then said other ordinance, law or statute shall govern.

2. Where land or property is to be reserved and ownership of same retained or held in the name of a private person or association, same shall be permanently reserved for public use, as directed by the Council, and held for the purpose of open space and recreational facilities and its purpose or use shall not be altered.

3. The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then to require dedication or reservation of five percent (5%) for single density residential and medium density residential zones and ten percent (10%) for multiple density residential zones of said land area as hereinafter provided.

4. Where such dedication or reservation is not feasible or compatible with the comprehensive plan as determined by the Council upon the recommendation of the Commission, the subdivider or developer shall, in lieu thereof, pay to the City a fee or combination of fee and land, equivalent to the value of the required dedication or reservation.

5. Such fee shall be used exclusively for immediate or future site acquisition and development and shall be used only for the purpose of providing public service areas, open space lands and other recreational facilities to serve the subdivision or development for which received. The location of the land and the amount of the fee shall bear reasonable relationship to the use of the open space lands and other recreational facilities by future inhabitants of the subdivision or development for which received as well as those inhabitants of the surrounding areas.
6. In all cases where the Council, upon recommendation by the Commission, shall direct and determine that cash is to be deposited, or that a combination of cash and land is to be deposited, dedicated or reserved for public service areas, park, playground or recreational purposes or a combination of uses, the cash value shall be determined in the following manner:

A. The Council shall first determine the size of the land area which it would have required to set aside for such purposes, which shall be five percent (5%) for R-1 and R-2 zones and ten percent (10%) for R-3 zones of the total land area of the proposed subdivision or development.

B. The cash value of said land shall be determined by taking the total purchase price or cost of all the land in the proposed subdivision or development and charge the owner the proportionate value of the land area so designated, based upon such purchase price or cost; provided such purchase price or cost is the current fair and reasonable value of the land. If such purchase price or cost does not reflect the current fair and reasonable value of the land, the fair value of said land shall be determined by an impartial appraisal, and in such manner as may be designated by the Council, cost for said appraisal to be shared equally between developer and City.

7. All funds so levied, assessed and collected by the City shall be deposited in a special fund to be known and designated as “Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities,” (Special Fund) and said funds so levied and collected shall be used for such purposes, in such places and in such manner as shall be approved, ordered and directed by the Recreation Committee (Park Board) of the City and which shall be consistent with this chapter and authorization for creation of said fund is hereby granted. Any and all interest accumulated upon such funds shall be added to the Special Fund and used only for acquisition and development of open space and recreational facilities.

8. The procedure for determining whether the subdivider or developer is to dedicate or reserve land, pay a fee, or both, shall be as follows: At the time of filing a preliminary plat or site plan with the Commission, the owner or developer of the property shall, as a part of such filing, indicate whether he or she desires to dedicate or reserve property for public service areas, open space and recreational purposes, or whether he or she desires to pay a fee in lieu thereof. If the owner or developer desires to dedicate or reserve land for this purpose, he or she shall designate the area thereof on the preliminary plat or site plan as submitted.

9. At the time the preliminary plat or site plan is approved by the Council, the Council shall determine as a part of such approval whether to require a dedication or reservation of land within the subdivision or development, payment of a fee in lieu thereof, or a combination of both. Provided, however, the City shall determine which land shall apply to the dedication or reservation and the requirements contained herein.
10. Where a dedication is required, it shall be accomplished by providing the Clerk with a properly executed warranty deed dedicating the required land to the City without cost to the City. Where fees in lieu of dedication are required, the same shall be deposited with the Clerk prior to the approval of the final plat or site plan.

11. The Council shall determine whether dedication, reservation or cash in lieu thereof or a combination of cash, dedication and reservation shall be required and in making said decision the Council shall consider the following:

A. Recreational element of the City’s comprehensive plan.

B. Topographic and geologic conditions and access and location of land in subdivision or development available for dedication.

C. Size and shape of the subdivision or development and land available for dedication.

D. The relation of the subdivision or development to the comprehensive plan map, particularly as such plan map may show proposed public service areas, open space and recreational areas.

E. The character and recreational needs of the neighborhood in which the subdivision or development is located.

F. The unsuitability in the subdivision or development for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.

G. The possibility that land immediately adjoining the subdivision or development will serve in whole or in part the public service areas, open space and recreational needs of such subdivision or development.

H. Any and all other information relevant to a proper determination.

The determination of the Council as to whether land shall be dedicated or reserved or a fee shall be charged, or a combination thereof, shall be final and conclusive.

12. It shall be the duty of the Council to properly develop and maintain the dedicated area for open space and recreational facilities and the owner who dedicated said land shall in no way be responsible for its development, maintenance or liability thereon except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property. Where the owner is allowed to retain the land required for open space and recreational purposes and facilities in private ownership, it shall be the owner’s responsibility to properly develop and maintain the area.

13. The requirements of this chapter shall not be applicable to:
A. Existing subdivisions or developments which are presently constructed; or

B. Developments for which building permits have been issued; or

C. In the case of plats, subdivisions for which preliminary approval has been granted at the time of the enactment of the ordinance codified herein. If such building permits or plats expire prior to completion of the subdivision or development for which it was issued or approved, renewal or reissuance of the building permit or extension of time for the preliminary plat shall not be deemed to bring such subdivision or development within the terms of this chapter.

166.21 EROSION CONTROL. The owner shall control erosion occurring in the subdivision by such methods as seeding, sodding, earth dikes, sediment basins to trap runoff water or by other methods as approved by the City Engineer and as required by the State.

166.22 PREAPPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the Clerk. The conference should be attended by the Clerk and other City or utility representatives as deemed desirable, and by the owner’s engineer and/or planner, as deemed desirable. The purpose of the conference shall be to acquaint the City with the proposed subdivision and to acquaint the subdivider with the requirements, procedures and any special problems relating to the proposed subdivision. The preapplication conference shall be a prerequisite to submission of any form of plat for consideration by the Commission or Council.

166.23 SITE PLAN REQUIREMENTS. Every application for a building permit, or a certificate of occupancy, shall be accompanied by a site plan which shall show or have attached the items listed on the Site Plan Review Checklist adopted by resolution by the City Council and available from the Zoning Administrator.

1. Site Plan Review of One- and Two-Family Dwelling Units. The Zoning Administrator shall review the site plan for compliance with the items on the site plan review checklist for one- and two-family dwelling units prior to issuance of a building permit.

2. Site Plans for Uses Other Than One- and Two-Family Units. The Zoning Administrator shall submit to the Planning and Zoning Commission, City Engineer, Fire Department and Water Department a copy of the site plan for every application for a building permit or a certificate of occupancy which involves:

   a. Erection of a new structure.
   b. Expansion of an existing structure.
   c. Change in use of an existing structure.
d. Construction of a new parking area, including construction of new access and drive(s).

3. Departmental Review. Departments shall review site plans and return them to the Zoning Administrator along with written findings and recommendations no less than thirty-five (35) days from the date they were received.

4. Action by the Planning and Zoning Commission. The Planning and Zoning Commission at their next regularly scheduled meeting shall review the site plan and information presented and may approve, approve with modifications, or deny any site plan proposal. a. If an application for a proposed site plan is not acted upon finally by the Planning and Zoning Commission within ninety (90) days of the date the site plan application was received by the Zoning Administration, and such time is not extended by mutual consent of the Planning and Zoning Commission and petitioner, it shall be deemed to have been denied. The applicant may request that the site plan proposal be held from further action for an unstated length of time. However, if the time exceeds ninety (90) days the City shall notify the applicant that the site plan application shall be considered withdrawn and that it shall be reconsidered only upon the filing of a new request for a site plan.

5. Issuance of a Building Permit. No building permits shall be issued unless the site plan, included as part of the building plans, is in accordance with the approved site development plan approved by the Planning and Zoning Commission or subsequently approved as a revised site development plan by the Commission.

166.24 PRESENTATION TO COMMISSION AND COUNCIL. The subdivider shall present the sketch plan to the Commission and Council for review prior to incurring significant costs preparing the preliminary or final plat.

166.25 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision.

1. Minor Subdivision. Any subdivision which contains not more than four (4) lots fronting on an existing street and which does not require construction of any public improvements and which does not adversely affect the remainder of the parcel shall be classified as a minor plat.

2. Major Subdivision. Any subdivision which in the opinion of the Council does not for any reason meet the definition of a minor plat shall be classified as a major subdivision.

166.26 PLATS REQUIRED. In order to secure approval of any proposed subdivision, the owner shall submit to the City plats and other information as required by this chapter. The owner of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner of a minor subdivision may elect to omit the submission of a preliminary plat.
166.27 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the Clerk twenty (20) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one (1) sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked “Preliminary Plat” and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.
2. Proposed name of the subdivision, which shall not duplicate or resemble existing subdivision names in the County.
3. Name and address of the owner and the name, address and profession of the person preparing the plat.
4. A key map showing the general location of the proposed subdivision in relation to surrounding development.
5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.
6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses and other existing features affecting the plat.
7. Existing and proposed zoning of the proposed subdivision and adjoining property.
8. Contours at vertical intervals of not more than five (5) feet.
9. The legal description of the area being platted.
10. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
11. The layout, numbers and approximate dimensions of proposed lots.
12. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
13. The proposed names for all streets in the area being platted.
14. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities and other facilities.
15. Proposed easements, showing locations, widths, purposes and limitations, as well as letters from the appropriate utilities approving the easements as shown.
16. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes or shown for such purpose in the comprehensive plan or other adopted plans.

17. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

18. Any other pertinent information as necessary.

19. The fee, as required by this chapter.

20. A restrictive covenant limiting access for all lots in the subdivision to the public road internal to the subdivision for plats bordering Lewis Access Road. Resubdivisions of plats resulting in the need for another access point to Lewis Access shall be prohibited unless the access point meets the criteria of Section 166.18(18).

166.28 REVIEW OF PRELIMINARY PLAT.

1. The Clerk, upon receipt of twenty (20) copies of the preliminary plat, shall file one (1) copy in the records of the City, shall retain one (1) copy for public inspection and shall forward the remaining copies of the plat to the Commission, City Engineer, Council, Mayor and such other persons as necessary to review the plat and shall schedule the plat for consideration by the Commission.

2. The Commission shall examine the plat and the report of the City Engineer, and such other information as it deems necessary or desirable to ascertain whether the plat conforms to this Code of Ordinances and conforms to the comprehensive plan and other duly adopted plans of the City. The Commission shall, within sixty (60) days of the filing of the plat with the Clerk, forward a written report and recommendation regarding the plat to the Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report and a copy of the report and recommendation shall be provided to the applicant.

3. The Council shall examine the plat, the report of the City Engineer, the report of the Commission, and such other information as it deems necessary or desirable. Upon such examination, the Council shall ascertain whether the plat conforms to this Code of Ordinances and standards of the City, conforms to the comprehensive plan and other duly adopted plans of the City and will be conducive to the orderly growth and development of the City, in order to protect the public health, safety and welfare. Following such examination, the Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the Council is to disapprove the plat or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the Council and such decisions shall be provided to the applicant. Action on the preliminary plat by the Council shall be taken within ninety (90) days of the filing of the plat with the Clerk, unless such time period is extended by agreement between the subdivider and the City.
166.29  DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the Council shall be valid for a period of one (1) year from the date of such approval, after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity by the Council.

166.30  AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the Council for the installation of improvements as required by this chapter and as shown on the preliminary plat; provided, however, no such improvement shall be constructed or installed until and unless the plan, profiles, cross sections and specifications for the construction of such improvement has been submitted to and approved in writing by the City Engineer.

166.31  COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements and the agreements between the subdivider and the City.

166.32  PERFORMANCE BOND. In lieu of the requirement that improvements be competed prior to the approval of a final plat, the subdivider may post a performance bond with the City guaranteeing that improvements not completed shall be completed within a period of two (2) years from the date of approval of such final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed. As an alternative, at the sole discretion of the Council, the owner shall enter into an agreement with the City, which agreement shall be binding upon the owner and all subsequent purchasers of any portion of the subdivision and shall run with the land, to accept an assessment equal to the actual cost of constructing said improvement and furthermore will waive the limitation provided in Section 384.62 of the Code of Iowa that an assessment may not exceed twenty-five percent (25%) of the value of the lot, and which agreement shall be duly acknowledged by the owner and filed of record with the County Recorder as part of the platting proceeding.

166.33  REQUIREMENTS OF THE FINAL PLAT. The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Clerk twenty (20) copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision, as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. The final plat shall be drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") nor smaller than eight and one-half inches by eleven inches (8½" x 11") and shall be of a size acceptable to the County Auditor. If more than one (1) sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets in the plat, and match.
The final plat shall be clearly marked “Final Plat” and shall show the following:

1. The name of the subdivision.
2. Name and address of the owner and subdivider.
3. Scale and a graphic bar scale, north arrow and date of each sheet.
4. All monuments to be of record as required by Chapter 354 of the Code of Iowa.
5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
6. All distance, bearing, curve and other survey data as required by Chapter 354 of the Code of Iowa.
7. All adjoining properties shall be identified and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
8. Street names and clear designation of public alleys.
9. Block and lot numbers.
10. Accurate dimensions for any property to be dedicated or reserved for public use and the purpose for which such property is dedicated or reserved for public use.
11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
12. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat.”
13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.
14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
15. A statement by a registered land surveyor that the plat was prepared by the
surveyor or under the surveyor’s direct personal supervision, signed and dated by the
surveyor and bearing the surveyor’s Iowa registration number or seal; and a sealed
certification of the accuracy of the plat by the registered land surveyor who drew the
plat.

16. A restrictive covenant limiting access for all lots in the subdivision to the public
road internal to the subdivision for plats bordering Lewis Access Road.

166.34 ATTACHMENTS TO AUDITOR AND SUBDIVISION PLATS.

1. Auditor plats shall be accompanied by pro forma copies of the attachments
required by Section 354.16 of the Code of Iowa and shall have the actual attachments
at the time of recording. Subdivision plats shall be accompanied by pro forma copies
of the attachments required by Sections 354.11 and 354.19 of the Code of Iowa, when
applicable, and shall have the actual executed attachments at the time of recording.

2. A certificate by the Developer’s Engineer that all required improvements have
been satisfactorily completed in accordance with the construction plans as approved
and in the substantial compliance with the approved preliminary plat. Prior to such
certification, construction record drawings for all improvements shall have been
provided to the City Engineer. In lieu thereof, the Clerk may certify that a performance
bond guaranteeing completion has been approved by the City Attorney and filed with
the Clerk, or that the Council has agreed that the City will provide the necessary
improvements and installations and assess the costs against the subdivider or future
property owners in the subdivision.

3. A statement of restrictions of all types that run with the land and become
covenants in the deeds of lots.

4. Where the improvements have been installed, a resolution accepting and
approving such improvements, along with the maintenance bond required by this
chapter.

5. If private streets or other private improvements have been approved, an
agreement in the form of a covenant running with the land, in a form approved by the
City Attorney, providing for the construction or reconstruction of any improvements
to meet City standards and the assessment of all costs to the property owners in the
event of annexation and dedication and acceptance shall be required.

6. The applicable fee, if any.

166.35 REVIEW OF FINAL PLATS.

1. The Clerk, upon receipt of twenty (20) copies of the final plat, shall file one
copy in the records of the City, shall retain one copy for public inspection and shall
forward the remaining copies to the Commission, City Engineer, Council, Mayor and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Council.

2. The Clerk and the City Engineer shall examine the plat as to its compliance with the ordinances and standards of the City and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.

3. The Commission shall review the final plat and shall forward a written recommendation thereon to the Council within sixty (60) days of the filing of the plat with the Clerk. If the recommendation is to disapprove the plat or to require modification of the plat, the reasons therefor shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.

4. Upon receipt of the plat and written reports thereon, the Council shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the City and the comprehensive plan and other duly adopted plans, all as of the date of approval of the preliminary plat, and is found to substantially conform to the preliminary plat, the Council shall approve the plat and shall cause its approval to be entered on the plat as required by law.

5. Action on the final plat by the Council shall be taken within 90 days of the date of filing of the plat with the Clerk unless such time period is extended by agreement between the subdivider and the City. If the action is to disapprove the plat, the reasons therefor shall be set forth in the official records of the Council and such decision shall be provided to the subdivider.

166.36 FILING DEADLINE. All plats to be submitted hereunder shall be filed with the Clerk per current Commission regulations.

166.37 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified or waived.

166.38 CHANGES AND AMENDMENTS. This chapter or any provision of this chapter may be changed or amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published as required by law.