

CODE OF ORDINANCES
OF THE
CITY OF
STUART, IOWA

Prepared By: IOWA CODIFICATION, INC.
P. O. Box 141
610 Buddy Holly Place
Clear Lake, Iowa 50428
(641) 357-7596
www.iowacodification.com

CODE OF ORDINANCES CITY OF STUART, IOWA

TABLE OF CONTENTS

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES	1
CHAPTER 2 - CHARTER.....	9
CHAPTER 3 - MUNICIPAL INFRACTIONS	11
CHAPTER 5 - OPERATING PROCEDURES	21
CHAPTER 6 - CITY ELECTIONS	29
CHAPTER 7 - FISCAL MANAGEMENT	35
CHAPTER 8 - ECONOMIC DEVELOPMENT PROPERTY TAX EXEMPTION	45
CHAPTER 9 - URBAN RENEWAL.....	51
CHAPTER 10 - URBAN REVITALIZATION	55

ADMINISTRATION, BOARDS AND COMMISSIONS

CHAPTER 15 - MAYOR.....	75
CHAPTER 16 - MAYOR PRO TEM.....	77
CHAPTER 17 - CITY COUNCIL.....	79
CHAPTER 18 - CITY CLERK	85
CHAPTER 19 - CITY TREASURER.....	89
CHAPTER 20 - CITY ATTORNEY	91
CHAPTER 21 - CITY ADMINISTRATOR.....	93
CHAPTER 22 - LIBRARY BOARD OF TRUSTEES.....	97

TABLE OF CONTENTS

ADMINISTRATION, BOARDS AND COMMISSIONS (continued)

CHAPTER 23 - PLANNING AND ZONING COMMISSION	101
CHAPTER 24 - UTILITY BOARD OF TRUSTEES.....	103
CHAPTER 25 - HISTORIC PRESERVATION.....	105

POLICE, FIRE AND EMERGENCIES

CHAPTER 30 - POLICE DEPARTMENT	151
CHAPTER 31 - RESERVE PEACE OFFICERS.....	153
CHAPTER 35 - FIRE AND RESCUE DEPARTMENT.....	161
CHAPTER 36 - HAZARDOUS SUBSTANCE SPILLS	171

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	195
CHAPTER 41 - PUBLIC HEALTH AND SAFETY	201
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY	205
CHAPTER 43 - DRUG PARAPHERNALIA.....	213
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	235
CHAPTER 46 - MINORS.....	237
CHAPTER 47 - PARK REGULATIONS.....	241

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	275
CHAPTER 51 - JUNK AND JUNK VEHICLES	281
CHAPTER 52 - NOISE POLLUTION	283
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL	301
CHAPTER 56 - DANGEROUS AND VICIOUS ANIMALS	315
CHAPTER 57 - DOG LICENSE REQUIRED	323

TABLE OF CONTENTS

TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE.....	345
CHAPTER 61 - TRAFFIC CONTROL DEVICES	351
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS.....	353
CHAPTER 63 - SPEED REGULATIONS	365
CHAPTER 64 - TURNING REGULATIONS	371
CHAPTER 65 - STOP OR YIELD REQUIRED	373
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS	381
CHAPTER 67 - PEDESTRIANS.....	383
CHAPTER 68 - ONE-WAY TRAFFIC	385
CHAPTER 69 - PARKING REGULATIONS	387
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES.....	405
CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES.....	425
CHAPTER 76 - BICYCLE REGULATIONS	429
CHAPTER 77 - SKATES AND SKATEBOARDS	431
CHAPTER 80 - ABANDONED VEHICLES	451

WATER

CHAPTER 90 - WATER SERVICE SYSTEM	475
CHAPTER 91 - WATER CONSERVATION	477

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	501
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	505
CHAPTER 97 - USE OF PUBLIC SEWERS.....	511
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS	515

TABLE OF CONTENTS

CHAPTER 99 - SEWER SERVICE CHARGES.....517

CHAPTER 100 - SEWER CONNECTION CHARGES.....519

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL535

CHAPTER 106 - COLLECTION OF SOLID WASTE545

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE565

CHAPTER 111 - CABLE TELEVISION REGULATIONS571

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS601

CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....607

CHAPTER 122 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.....615

CHAPTER 123 - HOUSE MOVERS.....623

CHAPTER 124 - HOTEL/MOTEL TAX.....629

CHAPTER 125 - SALVAGE DEALERS AND YARDS631

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE.....651

CHAPTER 136 - SIDEWALK REGULATIONS657

CHAPTER 137 - VACATION AND DISPOSAL OF STREETS.....667

CHAPTER 138 - STREET GRADES669

CHAPTER 139 - NAMING OF STREETS.....671

CHAPTER 140 - CONTROLLED ACCESS FACILITIES673

BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS.....701

TABLE OF CONTENTS

CHAPTER 146 - MANUFACTURED AND MOBILE HOMES	705
CHAPTER 147 - FIRE ZONE.....	711

TABLE OF CONTENTS

BUILDING AND PROPERTY REGULATIONS (continued)

CHAPTER 148 - BUILDING CODE.....	721
CHAPTER 149 - STORM WATER CONTROL.....	751
CHAPTER 150 - BUILDING NUMBERING	761
CHAPTER 151 - TREES	763

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS - DEFINITIONS AND GENERAL PROVISIONS.....	801
CHAPTER 166 - ZONING REGULATIONS - NONCONFORMING USES AND STRUCTURES.....	825
CHAPTER 167 - ZONING REGULATIONS ADMINISTRATION AND ENFORCEMENT....	839
CHAPTER 168 - ZONING REGULATIONS DISTRICT REGULATIONS	855
CHAPTER 170 - SUBDIVISION REGULATIONS.....	985
CHAPTER 171 - SITE PLAN REGULATIONS	995

INDEX

APPENDIX:

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

SUGGESTED FORMS:

DANGEROUS BUILDINGS - FIRST NOTICE.....	7
DANGEROUS BUILDINGS - NOTICE OF HEARING.....	8
DANGEROUS BUILDINGS - RESOLUTION AND ORDER.....	9
NOTICE TO ABATE NUISANCE	10
NOTICE OF REQUIRED SEWER CONNECTION.....	11
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION.....	12
RESOLUTION AND ORDER FOR REQUIRED SEWER CONNECTION	13

CHAPTER 1

CODE OF ORDINANCES

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

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

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 Stuart, Iowa.
3. “Clerk” means the city clerk of Stuart, Iowa.
4. “Code” means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Stuart, Iowa.
6. “Council” means the city council of Stuart, Iowa.
7. “County” means Adair County or Guthrie County, Iowa, whichever is geographically applicable.
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 Stuart, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. “Parks” refers to the following public facilities:
- A. “Lawbaugh Park,” located generally between South Division Street on the east, South Harrison Street on the west, Southwest Second Street on the north, and Southwest Third Street on the south.
 - B. “Stuart Sports Complex,” located generally between the Iowa Interstate Railroad tracks on the north, Southeast Fourth Street on the south, South Fremont Street on the west, and South Madison Street on the east.
 - C. “McDonald’s Mini Park,” located generally between Southeast Seventh Street on the north, McDonald’s restaurant on the west, and border designated farmland located on the east and south.
14. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
15. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
16. “Shall” imposes a duty.
17. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
18. “State” means the State of Iowa.
19. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.
20. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Words that are not defined in this Code 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 to 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 any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code 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.

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

of Ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.[†]

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

[The next page is 9]

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

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 372 adopting a charter for the City was passed and approved by the Council on June 12, 1975, and was published on June 19, 1975.

o o o o o o o o o o

CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00

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

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

However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

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

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

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

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

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

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 ALTERNATIVE 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])

[The next page is 21]

CHAPTER 5

OPERATING PROCEDURES

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

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

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

1. **Qualify for Office.** Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no 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 Stuart 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 POWERS AND DUTIES. 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[3a])

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[3b])

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$2,500.00 in a fiscal year.

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

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

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

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[3m])

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 30 days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within 30 days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

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

5.11 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)

[The next page is 29]

CHAPTER 6
CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 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])

[The next page is 35]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer

7.03 Cash Control
7.04 City Finance

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 City 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 Clerk 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 Clerk 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 Clerk shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

7.04 CITY FINANCE. The City Clerk shall establish and maintain funds, prepare the annual operating budget and amendments thereto, if any, keep accounting records and prepare financial reports, all in accordance with State law, the rules and regulations of the Iowa Department of Management, the City Finance Committee, and generally accepted accounting practices and procedures.

[The next page is 45]

CHAPTER 8
ECONOMIC DEVELOPMENT PROPERTY TAX
EXEMPTION

8.01 Purpose
8.02 Definitions
8.03 Eligibility

8.04 When Effective
8.05 Application

8.01 PURPOSE. The purpose of this chapter is to provide for a property tax exemption for shell buildings constructed by community development organizations, not-for-profit cooperative associations under Chapter 499 of the *Code of Iowa*, or for-profit entities for speculative purposes in accordance with Section 427.1 of the *Code of Iowa*.

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

1. “Community development organization” means a City organization or a multi-community group formed for one or more of the following purposes:
 - A. To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, or region and its citizens.
 - B. To encourage and assist the location of new business and industry.
 - C. To rehabilitate and assist existing business and industry.
 - D. To stimulate and assist in the expansion of business activity.

For purposes of this definition, a community development organization must have at least 15 members with representation from the government at the level or levels corresponding to the community development organization’s area of operation; a private sector lending institution; a community organization in the area; business in the area; and private citizens in the community, area, or region.

2. “New construction” means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. “New construction” also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations, not-for-profit cooperative associations under Chapter 499 of the *Code of Iowa*, or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the Council.

3. “Speculative shell building” means a building or structure owned and constructed or reconstructed by a community development organization, a not-for-profit cooperative association under Chapter 499 of the *Code of Iowa*, or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user

which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

8.03 ELIGIBILITY. The new construction of shell buildings by the community development organization, not-for-profit cooperative association under Chapter 499 of the *Code of Iowa*, or for-profit entity for speculative purposes is eligible for property tax exemption. The exemption shall be for one of the following:

1. The value added by new construction of a shell building or addition to an existing building or structure.
2. The value of an existing building being reconstructed or renovated, and the value of the land on which the building is located, if the reconstruction or renovation constitutes complete replacement or refitting of the existing building or structure.

8.04 WHEN EFFECTIVE.

1. If the exemption is for a project described in Subsection 1 of Section 8.03, the exemption shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the addition to an existing building first adds value. If the exemption is for a project described in Subsection 2 of Section 8.03, the exemption shall be effective for the assessment year following the assessment year in which the project commences. An exemption allowed under this section shall be allowed for all subsequent years until the property is leased or sold or until the exemption is terminated by ordinance of the City Council.

2. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. However, an exemption shall not be granted a speculative shell building of a not-for-profit cooperative association under Chapter 499 of the *Code of Iowa* or a for-profit entity if the building is used by the cooperative association or for-profit entity or a subsidiary or majority owners thereof for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold, and a proportionate share of the land on which it is located if applicable, shall not be entitled to an exemption under this section for subsequent years. Upon the sale of the shell building, the shell building shall be considered new construction for purposes of Section 427B.1 of the *Code of Iowa* if used for purposes set forth in Section 427B.1.

8.05 APPLICATION.

1. If the speculative shell building project is a project described in Subsection 1 of Section 8.03, an application shall be filed pursuant to Section 427B.4 of the *Code of Iowa*.

2. If the speculative shell building project is a project described in Subsection 2 of Section 8.03, an application shall be filed pursuant to Section 427.1(27) of the *Code of Iowa*.

3. The exemption shall continue for a period of two assessment years after exemption is claimed.

[The next page is 51]

CHAPTER 9
URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
91-5	December 9, 1991	Stuart Urban Renewal Area
1-98C	January 12, 1998	Amendment #1 Area
14-98C	November 9, 1998	Amendment #2 Area
10-00C	November 13, 2000	Amendment # 3 Area
05-04C	July 11, 2005	Quail Run Urban Renewal Area
06-02C	March 13, 2006	Quail Run URA - Phase I
06-03C	March 13, 2006	Quail Run URA - Phase II
12-01C	February 13, 2012	2012 Addition to Stuart Urban Renewal Area
12-09C	October 8, 2012	Stuart Urban Renewal Area Increased Tax Revenue Use
13-01C	June 10, 2013	Stuart Urban Renewal Area Increased Tax Revenue Use

[The next page is 55]

CHAPTER 10

URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
89-23	January 8, 1990	Stuart Masonic Temple Historic Urban Revitalization Area
16-02C	April 18, 2016	Stuart 2016 Multiresidential Urban Revitalization Area

[The next page is 75]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Library Board of Trustees
3. Utility Board of Trustees
4. Historic Preservation Commission
5. Police Chief
6. Zoning Board of Adjustment
7. Building Official

15.04 COMPENSATION. The salary of the Mayor is \$2,000.00 per year.
(Code of Iowa, Sec. 372.13[8])

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

o o o o o o o o o

CHAPTER 17
CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 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])

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 \$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 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 14 days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Administrator
2. City Attorney
3. Planning and Zoning Commission
4. Zoning/Building Administrator

17.06 COMPENSATION. The salary of each Council member is \$30.00 for each meeting of the Council attended, subject to a maximum of \$1,500.00 per year.

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

[The next page is 85]

CHAPTER 18

CITY CLERK

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

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

18.01 APPOINTMENT AND COMPENSATION. The City Administrator is ex officio City Clerk and has the duties, powers, and functions prescribed in this chapter, by State law, and other ordinances of the City. The Council shall specify by resolution the compensation to be paid for such services.

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

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

18.03 PUBLICATION OF MINUTES. Within 15 days following a regular or special meeting, the Clerk 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 or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[3 & 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. The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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 "STUART" and around the margin of which are the words "TOWN OF STUART, STUART, IOWA."

o o o o o o o o o o

CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

o o o o o o o o o o

CHAPTER 20

CITY ATTORNEY

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

20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve 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 Mayor or Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

o o o o o o o o o o

CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Term
21.02 Compensation
21.03 Qualifications

21.04 Duties
21.05 Mayor's Retained Powers
21.06 Council Relations

21.01 APPOINTMENT AND TERM. The City Administrator shall be appointed by the majority vote of all members of the Council, shall hold office at the discretion of the Council, and shall be subject to removal and termination by a majority vote of all members of the Council, subject to the provisions and protections of Section 372.15 of the *Code of Iowa*.

21.02 COMPENSATION. The City Administrator shall receive such annual salary and benefits as the Council shall from time to time determine, and payment shall be made from the treasury of the City in the manner provided for the payment of compensation and allocation of benefits to other officers and employees of the City.

21.03 QUALIFICATIONS. The City Administrator shall be a person competent by education and/or experience to perform the duties imposed upon such person by this chapter. The City Administrator:

1. Shall possess a college degree in public administration or a related field and have three years of experience in city administration or an equivalent combination of education and experience, as the Council may determine.
2. Shall devote full time to the diligent and faithful performance of duties hereunder and shall not, during the term as Administrator, engage in any other employment or self-employment activities or endeavors or hold any other office or position, except with the approval of the Council, by motion.
3. Shall not, during the term as City Administrator, hold any position as officer or director of any "for profit" organization which does business or carries on any activities in the City, nor shall the City Administrator own more than five percent of the outstanding stock of any corporation which does business or carries on activities within the City.

21.04 DUTIES. The duties of the City Administrator are as follows:

1. To assume and perform all of the duties of the City Clerk, as provided in this Code of Ordinances, and as provided in the *Code of Iowa*.
2. To supervise enforcement and execution of the City ordinances and resolutions and applicable State and federal laws and regulations within the City.
3. To attend all meetings of the Council unless excused by the Mayor or majority of the Council members.
4. To recommend to the Council such measure as may be necessary or expedient for the good government and welfare of the City.
5. To have the general supervision and direction of the administration of the City government.

6. To supervise and conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
7. To supervise the performance of all contracts for work to be done for the City, supervise all purchases of material, supplies and equipment and insure that such material, supplies and equipment are received and are of the quality and character called for by the contract.
8. To supervise the construction, improvements, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications, and estimates for capital improvements.
9. To be directly responsible to the Council for the administration of municipal affairs as set forth in this chapter. All departments of the City shall report and be responsible to the City Administrator, except as otherwise provided herein. All departmental activity requiring the attention of the Council shall be brought before that body by the Administrator and all Council policy concerning administration shall be coordinated through the City Administrator, except as otherwise provided herein.
10. To supervise and direct through established procedures, all officers, departments and employees of the City, specifically including but not limited to streets, sewers, waste disposal, and central administration. To effectuate this responsibility, the City Administrator shall have the power and authority to employ such assistants and other employees of the City for which the Council has approved the positions generally.
11. To represent the City as directed by the Council, in all negotiations and relations with employees, contractors, consultants, other governmental units and civic organizations in which the City may have an interest.
12. To cooperate with, assist, and advise all administrative agencies, City boards, and commissions and act as the Council's liaison and representative to such entities.
13. To investigate the performance and conduct of any department, agency, officer, or employee of the City, as deemed appropriate.
14. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.
15. To supervise and assist City boards, commissions, and all City departments in the preparation, administration, and operation of the City's annual budget.
16. To make to the Council periodic reports of the general condition of the City in writing at such intervals as the Council directs.
17. To advise, assist, and consult with the City Attorney on all City legal matters.
18. To formulate and recommend employment and personnel policies and benefits and to prepare and maintain job descriptions for all City employees, all with the approval of the Council, and to set and implement employee compensation schedules.
19. To compile and maintain current and up-to-date information regarding all funding sources of the City, including State and federal grant and loan programs; to plan, develop, prepare and submit, with the approval and at the direction of the Council, applications for grants, loans, and other sources of funding and to administer all such funding.

20. To make recommendations to the Council and to participate in projects and endeavors to support and promote economic growth and development in the City.
21. To faithfully represent the Council and the City in intergovernmental relations.
22. To recommend to the Council that the Council employ, reclassify, discipline, or suspend any employee under the Administrator's direct control. The City Administrator shall also recommend to the Council, when appropriate, that the Council employ, reclassify, discipline, suspend, or discharge any employee under the supervision and control of any department head. The City Administrator shall not have the authority to employ or appoint, reclassify, discipline, suspend, or discharge the Police Chief, Fire Chief, or the City Attorney. The City Administrator shall not have any general or specific supervisory rights or duties with respect to the Police Chief or Police Department.
23. To perform such other duties as the Mayor or Council may direct.

21.05 MAYOR'S RETAINED POWERS. Without limitation, the Mayor specifically retains the following powers:

1. To appoint the Police Chief.
2. To function as the chief elected official, with responsibility for the general public relations of the City and intergovernmental affairs.
3. To preside at the Council meetings.
4. To cooperate with the City Administrator in the furtherance of the policies of the Council.
5. To fulfill all legal obligations and responsibilities provided by ordinance or State law.

21.06 COUNCIL RELATIONS. The City Administrator shall not participate in campaign activities in any City election, except by casting his or her vote, and shall not appoint an elected City official to any City office or employment position.

o o o o o o o o o

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

22.01 PUBLIC LIBRARY. The public library for the City is known as the Stuart 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 three resident members and two nonresident members. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident members are to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident members of the Board shall be bona fide citizens and residents of the unincorporated areas of Adair or Guthrie Counties. Members shall be over the age of 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 three years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

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

3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Librarian, and authorize the Librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the Librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.
(Code of Iowa, Ch. 661)
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof

until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after 30 days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 24

UTILITY BOARD OF TRUSTEES

24.01 Purpose

24.02 Board Established

24.03 Appointment of Trustees

24.04 Compensation

24.05 Vacancies

24.06 Powers and Duties of the Board

24.07 Control of Funds

24.08 Accounting

24.09 Discriminatory Rates Illegal

24.10 Discontinuance of Board

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

24.02 BOARD ESTABLISHED. The management and control of the municipally owned electric utility and water utility are in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

24.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five persons to serve as trustees for staggered six-year terms. No public officer or salaried employee of the City may serve on the utility board.

(Code of Iowa, Sec. 388.3)

24.04 COMPENSATION. The Council shall by resolution set the compensation of Board Members.

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.4)

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

(Code of Iowa, Sec. 388.4[1])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.6)

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

(Code of Iowa, Sec. 388.2)

CHAPTER 25

HISTORIC PRESERVATION

25.01 Purpose and Intent
25.02 Definitions

25.03 Stuart Historical Preservation Commission
25.04 Powers of the Commission

25.01 PURPOSE AND INTENT. The purpose of this chapter is to:

1. Promote the educational, cultural, economic, and general welfare of the public through the recognition, enhancement, and perpetuation of sites and districts of historical and cultural significance.
2. Safeguard the City's historic, aesthetic, and cultural heritage by preserving sites and districts of historic and cultural significance.
3. Stabilize and improve property values.
4. Foster pride in the legacy of beauty and achievements of the past.
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided.
6. Strengthen the economy of the City.
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

25.02 DEFINITIONS. The following terms are defined as used in this chapter:

1. "Commission" means the Stuart Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of archaeological sites, buildings, structures, and/or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling, and association, and which area as a whole:
 - A. Embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
 - B. Is associated with events that have made significant contributions to the broad patterns of our local, state, or national history; or
 - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area; or
 - D. Is associated with the lives of persons significant in our past; or
 - E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. "Historic site" means an archaeological site, structure, or building which is associated with events that have made a significant contribution to the broad patterns of our history; or is associated with the lives of persons significant in our past; or embodies the distinctive characteristics of a type, period, or method of construction; or that represents a work of a master; or that possesses high artistic values; or that represents a significant and distinguishable entity whose components may lack individual distinction; or has yielded, or may be likely to yield, information in prehistory or history.

25.03 STUART HISTORICAL PRESERVATION COMMISSION. The Commission shall initially consist of five members who shall be residents of the City. Members of the Commission shall be appointed by the Mayor with the advice and consent of the City Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general, or real estate.

1. The original appointment of the members of the Commission shall be three for two years and two for three years, from January 1 following the year of such appointment or until their successors are appointed to serve for the term of three years.
2. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.
3. Members may serve for more than one term and each member shall serve until the appointment of a successor. Vacancies shall be filled by the City according to the original selection as aforesaid.
4. Members shall serve without compensation.
5. A simple majority of the Commission shall constitute a quorum for the transaction of business.
6. The Commission shall elect a Chairman who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission's proceedings.
7. The Commission shall meet at least three times a year.

25.04 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. (The necessary inventory forms and procedures for their completion are available from the State Historical Society of Iowa). The Commission may proceed at its own initiative or upon a petition from any person, group, or association. The Commission shall maintain records of all studies and inventories for public use.
2. The Commission may make a recommendation to the State Historic Preservation Officer for the listing of a historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.
4. The Commission may appoint five members to a local design review committee, which committee shall have the power to review applications for the Main

Street Linked Investment for Tomorrow Program. Projects receiving preliminary design review approval from this committee will be submitted to the State Main Street Lift Design Review Board.

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

- A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.
- B. Acquire by purchase, bequest, or donation, fee, and lesser interests in historic properties, including properties adjacent to or associated with historic properties.
- C. Preserve, restore, maintain, and operate historic properties, under the ownership or control of the Commission.
- D. Lease, sell, and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.
- E. Contract, with the approval of the governing body, with the State or the federal government or other organizations.
- F. Cooperate with the federal, State, and local governments in the pursuance of the objectives of historic preservation.
- G. Provide information for the purpose of historic preservation to the governing body.
- H. Promote and conduct an educational interpretive program on historic properties within its jurisdiction.

[The next page is 151]

CHAPTER 30

POLICE DEPARTMENT

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

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

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

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

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

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

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

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The other members of the department are selected as directed by the Council.
(Code of Iowa, Sec. 372.4)

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

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

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

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

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

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

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

CHAPTER 31

RESERVE PEACE OFFICERS

31.01 Establishment of Force
31.02 Training
31.03 Status of Reserve Officers
31.04 Carrying Weapons
31.05 Supplementary Capacity
31.06 Supervision of Officers

31.07 No Reduction of Regular Force
31.08 Compensation
31.09 Benefits When Injured
31.10 Liability and False Arrest Insurance
31.11 No Participation in Pension Fund or Retirement System

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

31.02 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the *Code of Iowa* constitute the minimum standards for reserve peace officers. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

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

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

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

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

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

31.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. The Council may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

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

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

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

[The next page is 161]

CHAPTER 35

FIRE AND RESCUE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Qualifications
35.04 Approved by Council
35.05 Training
35.06 Compensation
35.07 Election of Officers

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

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

(Code of Iowa, Sec. 364.16)

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

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

35.03 QUALIFICATIONS. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person meets the qualifications as set forth in the constitution, bylaws, or regulations of the respective units of the department.

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

35.05 TRAINING. All members of the department shall meet the minimum training standards established by the State Fire Marshal and the *Code of Iowa* and attend and actively participate in regular or special training drills or programs as directed by the respective unit chiefs.

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

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

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

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

35.08 DUTIES. The Fire Chief and Rescue Unit Chief shall perform all duties required by law or ordinance, including but not limited to the following:

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. The Fire Chief shall investigate the cause, origin, and circumstances of each fire by which property has been destroyed or damaged or which results in bodily injury to any person. 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 and Rescue Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

9. Right of Entry. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall then conduct such investigation or inspection considered necessary in light of State law, regulation or ordinance.

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

12. Records. Cause to be kept records of the Fire and Rescue Department personnel, operating cost and efficiency of each element of firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause, and location, and an analysis of losses by value, type, and location of buildings.

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

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

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

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

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

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

35.12 CALLS OUTSIDE CITY. The department shall answer calls to fires and rescue and other emergencies outside the City limits in accordance with valid fire and rescue protection agreements, if any, or if the chiefs determine that such emergency exists and that such action will not endanger persons and property within the City limits.

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

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

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

35.14 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)

[The next page is 171]

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Jurisdiction Liability

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

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

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

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

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

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

4. “Hazardous waste” means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:

A. Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

B. Poses a substantial danger to human health or the environment.

“Hazardous waste” may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers or explosives.

5. “Person” means individual, corporation, firm, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association, or any other legal entity.

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

36.03 CLEANUP REQUIRED.

1. Whenever a hazardous condition is created so that a hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as defined by Section 36.02, as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.

2. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by authorization of the Mayor, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the City may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the City to finance, the Mayor may report to the County Emergency Management Coordinator for assistance in seeking any State or federal funds available for such cleanup.

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

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

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Fire Chief of the occurrence of a hazardous condition as soon as possible, but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition. The Fire Chief shall notify the County Emergency Management Office for assistance in contacting the proper State office in the manner established by the State.

2. Any employee of the City who discovers a hazardous condition shall notify the Fire Department. The Fire Chief shall notify the County Emergency Management

Office for assistance in contacting the proper State office in the manner established by the State.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the Fire Chief or Police Chief may:

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

No person shall disobey an order of the Fire Chief or any other deputy or peace officer/law enforcement officer issued under this section.

36.07 JURISDICTION LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. The exception is if the City is the responsible person as defined in Section 36.02(6).

[The next page is 195]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that 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 that 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])

An act described in subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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)

[The next page is 201]

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public Safety Entities
41.03 Providing False Identification Information
41.04 Refusing to Assist Officer
41.05 Harassment of Public Officers and Employees
41.06 Interference with Official Acts
41.07 Removal of an Officer's Communication or Control Device

41.08 Abandoned or Unattended Refrigerators
41.09 Antenna and Radio Wires
41.10 Barbed Wire and Electric Fences
41.11 Discharging Weapons
41.12 Throwing and Shooting
41.13 Urinating and Defecating
41.14 Fireworks

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 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, or firefighter, 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)

41.07 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE. No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 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.

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

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

41.13 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.

41.14 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

(Code of Iowa, Sec. 727.2)

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, skyrocketes, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

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:\$250,000.00 per person
- B. Property Damage:\$50,000.00
- C. Total Exposure:\$1,000,000.00

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.

o o o o o o o o o o

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

(Code of Iowa, Sec. 716.7[1])

A. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. “Public utility” is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. “Public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. “Railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

- F. “Trespass” means one or more of the following acts:

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

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

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

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

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

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. "Trespass" does not mean either of the following:

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

A. Entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

B. Entering upon the right-of-way of a public road or highway.

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or

when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that are also deemed to be public property offenses:

1. Chapter 22 – Library
 - A. Section 22.10 – Injury to Books or Property
 - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

[The next page is 213]

CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery, or Offering for Sale

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

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

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

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, or lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separators; Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. **Mixing Devices.** Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. **Containers.** Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. **Storage Containers.** Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. **Injecting Devices.** Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. **Ingesting-Inhaling Device.** Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;
 - J. Air driven pipes;
 - K. Chillums;
 - L. Bongs;
 - M. Ice pipes or chillers.

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

1. **Statements.** Statements by an owner or by anyone in control of the object concerning its use.
2. **Prior Convictions.** Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. **Proximity to Violation.** The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.

4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

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

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

[The next page is 235]

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic 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 that provides teaching for any grade from kindergarten through grade twelve.

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

3. A person shall not simulate intoxication in a public place.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that 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 62.01(49) and (50) of this Code of Ordinances.]*

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

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

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.04 Minors in Taverns

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 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 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. A curfew applicable to minors is established and shall be enforced as follows:
- A. Under Age 15. Unless accompanied by a responsible adult, no minor 14 years of age or younger shall be in any public place during the following times:
- Sunday through Thursday – 10:00 p.m. to 5:00 a.m. each day
- Friday and Saturday – 11:00 p.m. through 5:00 a.m. each day
- B. Age 15 to 17. Unless accompanied by a responsible adult, no minor 15 years of age thorough 17 years of age shall be in any public place during the following times:
- Sunday through Thursday – 11:00 p.m. to 5:00 a.m. each day
- Friday and Saturday – 12:00 midnight to 5:00 a.m. each day
3. Exceptions. The following are exceptions to the curfew:
- A. The minor is accompanied by a responsible adult.
- B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
- C. The minor is present at or is traveling between home and one of the following:
- (1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work.
 - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity.
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity.
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity.
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
- D. The minor is on an emergency errand for a responsible adult.
- E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.
5. Enforcement Procedures.
 - A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.
 - B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any nonsecured 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 18 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

46.04 MINORS IN TAVERNS. It is unlawful for any person under the age of 21 years to enter, remain in, or frequent a business establishment holding a retail liquor or beer permit unless over 50 percent of the dollar value of the business establishment comes from the sale and serving of prepared foods.

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 Parks Closed

47.06 Camping
47.07 Parking
47.08 Compliance With Rules
47.09 Alcohol Prohibited in Park Facilities

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:00 p.m. to 6:00 a.m.

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

47.07 PARKING. Automobiles and vehicles shall be parked in designated parking lot areas only. No vehicle shall be parked upon the grass or along roadways where roadways are posted.

47.08 COMPLIANCE WITH RULES. All persons shall abide by rules established by resolution of the City Council and posted in park or other recreational facilities.

47.09 ALCOHOL PROHIBITED IN PARK FACILITIES. No person shall possess or consume any beer or alcoholic beverages in any park or other recreational facilities, except as otherwise permitted by the Council.

[The next page is 275]

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 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

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 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.

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

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

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

50.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.

[†] **EDITOR'S NOTE:** 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.

- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. 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 the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within 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])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

[The next page is 281]

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junkyard lawfully operated within the City.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

CHAPTER 52

NOISE POLLUTION

52.01 Declaration of Policy

52.02 Definitions

52.03 Residential Property Noise Limits

52.04 Commercial and Industrial Property Noise Limits

52.05 Public Property Noise Limits

52.06 Special Provisions

52.07 Exception Permits

52.01 DECLARATION OF POLICY. It is hereby declared to be the policy of the City that the peace, health, safety, and welfare of its citizens require protection from excessive, unnecessary, and unreasonable noises from any and all sources in the community. It is the intention of the Council to control the adverse effect of such noise sources on the citizens under any conditions of use, especially those conditions of use that have the most severe impact on any person.

52.02 DEFINITIONS. For the purpose of this chapter, the following terms are defined:

1. “Commercial and industrial properties” does not refer to public property, but refers collectively to all property officially zoned any of the following classifications: Limited Agricultural (A-2), General Office and Retail (C-2), Industrial (M-1) and Highway Commercial (C-1).
2. “Emergencies” are essential activities necessary to restore, preserve, protect, or save lives or property from imminent danger of loss or harm.
3. “Local ambient” is the lowest sound level repeating itself during a six-minute period, as measured with a precision sound level meter, using slow response and “A” weighting. The minimum sound level shall be determined with the noise source at issue silent and in the same location as the measurement of the noise level of the source or sources at issue. However, for purposes of this chapter, in no case shall the local ambient be considered or determined to be less than: (i) 30 dBA for interior noise with respect to the requirements set forth in Section 52.03(1) and (2) of this chapter; and (ii) 40 dBA with respect to requirements set forth in all other sections. If a significant portion of the local ambient is produced by one or more individual identifiable sources that would otherwise be operating continuously during the six-minute measurement period and contributing significantly to the ambient sound level, determination of the local ambient shall be accomplished with these separate identifiable noise sources silent.
4. “Noise level” is the maximum continuous sound level or repetitive peak level produced by a source or group of sources as measured with a precision sound level meter using “A” weighting scale and the meter response function set to “Slow.”
5. “Precision sound level meter” is a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S 1.4, Specification for Sound Level Meters.
6. “Property plane” is a vertical plane passing through a property line which determines the property boundaries in space.
7. “Residential property” does not refer to public property, but refers to all property officially zoned Single-Family Residential (R-2). Any specific reference

herein to either single-family residential property or multi-family residential property refers to the actual use of the subject property as such.

8. "Sound level" expressed in decibels (dB), is a logarithmic indication of the ratio between the acoustic energy present at a given location and the lowest amount of acoustic energy audible to sensitive human ears and weighted by frequency to account for characteristics of human hearing, as given in the American National Standards Institute Standard S1.1, Acoustic Terminology, paragraph 2.9, or successor reference. All references to dB in this chapter utilize the A-level weighting scale, abbreviated dBa, measured as set forth in this section.

9. "Vehicle" means any device by which any person or property may be propelled, moved, or drawn on a highway or street.

52.03 RESIDENTIAL PROPERTY NOISE LIMITS.

1. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on single-family residential property, a noise level more than dB above the local ambient at any point outside of the property planes.

2. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on multi-family residential property, a noise level more than 6 dB above the local ambient three feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and doors of the dwelling unit are closed, except within the dwelling unit in which the noise source or sources may be located.

52.04 COMMERCIAL AND INDUSTRIAL PROPERTY NOISE LIMITS. No person shall produce, suffer, or allow to be produced by any machine, animal, or device, or any combination of same, on commercial or industrial property, a noise level more than 8 dB above the local ambient at any point outside of the property planes.

52.05 PUBLIC PROPERTY NOISE LIMITS.

1. No person shall produce, suffer, or allow to be produced by any machine or device, or any combination of same, on public property, a noise level more than 15 dB above the local ambient at a distance of 25 feet or more, unless otherwise provided in this chapter.

2. Sound performances and special events not exceeding 80 dBa measured at a distance of 50 feet are exempt from this chapter when approval therefor has been obtained from the Council as herein provided.

3. Vehicle horns or other devices primarily intended to create a loud noise for warning purposes shall not be used when the vehicle is at rest or when a situation endangering life, health, or property is not imminent.

52.06 SPECIAL PROVISIONS.

1. Daytime Exceptions. Any noise source that does not produce a noise level exceeding 70 dBa at a distance of 25 feet under its most noisy condition of use is exempt from the provisions of Sections 52.03(1) and (2), 52.04, and 52.05(1) between the hours of 8:00 a.m. and 8:00 p.m. daily, except on Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.

2. Safety Devices. Aural warning devices that are required by law to protect the health, safety, and welfare of the community shall not produce a noise level more than 3 dB above the standard or minimum level stipulated by law.
3. Emergencies. Emergencies are exempt from this chapter.
4. Construction. Notwithstanding any other provision of this chapter, between the hours of 8:00 a.m. and 8:00 p.m. daily, except on Sundays and holidays, when the exemption herein shall apply between 10:00 a.m. and 6:00 p.m.; construction, alteration, or repair activities that are authorized by a valid City permit shall be allowed if they meet at least one of the following noise limitations:
 - A. No individual piece of equipment shall produce a noise level exceeding 83 dBA at a distance of 25 feet. If the device is housed within a structure on property, the measurement shall be made outside the structure at a distance as close to 25 feet from the equipment as possible; or
 - B. The noise level at any point outside of the property planes of the project shall not exceed 86 dBA.

52.07 EXCEPTION PERMITS. If an applicant can show to the Council that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, up to seven months, but renewable on a showing of good cause, and shall be conditioned by a schedule of compliance and details of methods therefor in appropriate cases.

[The next page is 301]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Animal Nuisance
55.02 Livestock	55.11 Frequent Violators; Nuisance Abatement; Protective Custody
55.03 Animals at Large Prohibited	55.12 Impoundment Fees
55.04 Impounding Animals at Large	55.13 Types of Animals Permitted
55.05 Disposition of Animals	55.14 Enclosures
55.06 Rabies Vaccination	55.15 Abandonment of Cats and Dogs
55.07 Confinement	55.16 Pet Awards
55.08 Owner's Duty	
55.09 Standard of Care	

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 control officer" means a person designated by the City to perform such duties involving animal control and having police authority for the enforcement of this chapter. If no such person is designated by the City, the Police Chief shall be the animal control officer.
4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
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. "Cats" means both male and female cats, six months of age or over, including both spayed and unspayed cats.
7. "Dogs" means both male and female dogs, including both spayed and unspayed dogs.
8. "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.

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

10. “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)

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

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

55.02 LIVESTOCK. It is unlawful for a person to keep livestock within the City except in compliance with the City’s zoning regulations.

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

55.04 IMPOUNDING ANIMALS AT LARGE. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

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

(Code of Iowa, Sec. 351.37, 351.41)

55.06 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 State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.39)

55.08 OWNER'S DUTY. It is the duty of the owner of any dog, cat, or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

55.09 STANDARD OF CARE. All owners and keepers of any animal shall comply with the following standards of care. Failure to comply with any standards shall be a violation of this section.

1. It is the duty of each person keeping an animal to provide adequate food, shelter, and water for that animal. No person keeping an animal shall abandon any such animal. Abandonment of an animal shall be deemed to exist when there is a failure to provide control over, shelter, food, and water for an animal without having made responsible arrangements for such care, custody, and physical control to be provided by another person.
2. It is the duty of each person keeping an animal to provide adequate food, which means providing at intervals appropriate for the species a quantity of wholesome foodstuff, suitable for the physical condition and age of the animal, served in a clean receptacle or container, sufficient to maintain an adequate level of nutrition for such animal.
3. It is the duty of each person keeping an animal to provide adequate outdoor shelter for such animal when it is kept outdoors, tangle free, which means a structurally sound, weatherproof, properly ventilated shelter for such animal, which provides access to shade from direct sunlight and egress from exposure to weather conditions. The shelter should be appropriate for the particular species and breed.
4. It is the duty of each person keeping an animal to provide adequate indoor shelter for such animal when it is kept indoors, which means a properly ventilated and illuminated facility, sufficiently regulated by heating or cooling to protect the animal from extremes of temperature, and to provide for its health and comfort. It should be appropriate for the particular species and breed.
5. It is the duty of each person keeping an animal to provide adequate sanitation, which means periodic cleaning or sanitizing housing facilities and any area where the animal is confined or restrained, and to remove excreta and other waste materials and dirt, so as to minimize vermin infestation, odors and disease hazards.
6. It is the duty of each person keeping an animal to provide adequate space, which means primary enclosures and housing facilities shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. The space shall be appropriate for the particular species.
7. It is the duty of each person keeping an animal to provide adequate veterinary care, which means that a sick, diseased, or injured animal shall be provided with a proper program of care by a veterinarian, or humanely euthanized. All animals shall be provided with proper immunizations and preventative health care including parasite control.
8. It is the duty of each person keeping an animal to provide adequate water, which means reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner. If potable water is not accessible to the animal at all times, it shall

be provided daily, for such duration and of sufficient quantity as appropriate for the species.

55.10 ANIMAL NUISANCE. The following acts and circumstances are hereby declared to be nuisances and therefore prohibited.

1. The keeping of an animal or animals on private property in such a manner that the accumulation of solid waste of such animal or animals becomes a detriment to or menace to the health of the animal, or an annoyance to humans.
2. Any person having in his or her possession any dog or cat which, by frequent and habitual howling, yelping, barking, or otherwise, unreasonably disturbs the peace and quiet of the vicinity.
3. Allowing any animal to molest any person on public or private property who has a legitimate reason to be thereon.

55.11 FREQUENT VIOLATORS; NUISANCE ABATEMENT; PROTECTIVE CUSTODY.

1. After the third conviction for violation of any provision of this chapter by the same person with respect to any animal or animals at any site or sites, proceedings for a fourth municipal infraction against that person for a violation of said chapter may include a request to the Court for an order that a specified animal or animals being kept by that person be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court.
2. An animal that is a nuisance as declared by Section 55.10 of this chapter, or an animal being kept in conditions that are a nuisance as declared by said section, may be impounded by local law enforcement to abate the nuisance. If the keeper of the animal so impounded is known, a violation of said section may be charged against that person. Additionally, the law enforcement personnel may, in the municipal infraction proceedings brought for violation thereof, ask the Court for an order that the animal or animals be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court.
3. When there is a violation of Section 55.09 of this chapter, Standard of Care, the animal control officer may cause an animal or animals affected by such violation be taken into protective custody. The owner and/or keeper failing to meet the requirements of said Section 55.09 may be charged with a violation of that section. Additionally, the animal control officer may, in the municipal infraction proceedings brought for violation thereof, ask the Court for an order that the animal or animals be relocated or other disposition made within a reasonable time to be specified in the City's request to the Court. When an animal is impounded or taken into protective custody under this section, the owner of the animal shall reimburse the City for the expense of nourishing and caring for the animal while impounded or in the protective custody of the City, and an animal shall not be released from impoundment or protective custody until the amount of such reimbursement due and payable to the City has been received by the City. If the animal is not reclaimed and the expense of its care paid to the City within 14 days after the day the animal is available for release, the animal may be humanely destroyed or otherwise disposed of according to law.

55.12 IMPOUNDMENT FEES. The owner of any dog, cat, or other animal impounded under this chapter, in addition to any charges for confinement and veterinary services incurred

in the impoundment, shall pay to the City the following fees in connection with impoundment: \$50.00 for the first day or fraction thereof involving first violation, and \$10.00 for each additional day or fraction of a day thereafter. If, within one year's time the same animal is impounded a second time, the impounding fee shall be increased to \$75.00 for the first day or fraction of a day thereof and \$10.00 for each additional day or fraction of a day thereafter. If, within a year's time the same animal is impounded three or more times, the impounding fee shall be increased to \$100.00 for the first day or fraction thereof, and \$10.00 for each additional day or fraction of a day thereafter.

55.13 TYPES OF ANIMALS PERMITTED. The following animals may be owned as pets under the following conditions.

1. Dogs (not to exceed three in number) and cats (not to exceed three in number) which are owned and maintained in compliance with the provisions of this chapter relating to such animals, and except for dogs or cats owned by an operator who is a State or federally licensed commercial breeder of dogs or cats.
2. Rabbits (not to exceed three in number) maintained in a hutch or other type of enclosure.
3. Domestic poultry and fowl; that is, poultry and fowl ordinarily raised for productions of eggs or meat, not to exceed two in number considered together and maintained at all times in a pen and/or coop.
4. The young produced by any pets permitted herein may be maintained with the parent animals for a period of approximately eight weeks but in no case longer than 10 weeks.
5. Gerbils, hamsters, guinea pigs, mice, birds, snakes, and other similar animals normally maintained as pets in an enclosure inside a dwelling are not prohibited by this section.
6. The provisions of this section shall not be deemed to prohibit the keeping or maintaining of any animal which was legally kept upon any land on December 30, 1994, provided no additional animals to those legally kept upon said date shall be placed upon any land on or after December 30, 1994, and any animal which dies or is removed or ceases to be kept or maintained under this section may not be replaced as long as the total number of animals kept exceeds the number allowable under this section. In order to establish a right to keep animals under this section, a person having control over land must have made application to the Clerk upon forms provided by the Council on or before March 1, 1995, and been granted a variance by the Council.

55.14 ENCLOSURES. Any enclosure, pen, coop, or hutch in which pets are maintained shall be cleaned at a minimum of every other day or more often if deemed advisable or necessary by the Council. They shall be located at a minimum of 25 feet from a neighboring dwelling. No animal may be enclosed or fenced in the front yard of a dwelling.

55.15 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)

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

[The next page is 315]

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Registration Required

56.03 Confinement Standards

56.04 Seizure, Impoundment, and Disposition of
Dangerous Animals

56.05 Keeping of Vicious Animals Prohibited

56.06 Seizure, Impoundment, and Disposition of
Vicious Animals

56.07 Violations

56.08 Impoundment Fees

56.01 DEFINITIONS. For use in this chapter, the following definitions apply:

1. “Animal control officer” means a person designated by the City to perform such duties involving animal control and having police authority for the enforcement of this chapter. If no such person is designated by the City, the Police Chief shall be the animal control officer.
2. “At large” means any animal off the premises of the owner. A dangerous animal shall not be deemed at large if such animal:
 - A. Is on the premises of the owner;
 - B. Is under the control of a person competent to restrain and control the animal, and securely leashed with a leash, cord, chain, or other similar restraint no longer than four feet in length, and muzzled by a muzzling device sufficient to prevent such dangerous animal from biting persons or other animals, or properly restrained within a motor vehicle; or
 - C. Is properly housed in a veterinary hospital or licensed kennel, pet shop, or City designated animal pound.
3. “Dangerous animal” means: †
 - A. Any animal with a known propensity, tendency, or disposition to attack, unprovoked, as evidenced by its habitual or repeated chasing, snapping, or barking at human beings or domestic animals so as to potentially cause injury or otherwise to endanger their safety; or
 - B. Any animal that snaps, bites, or manifests a disposition to snap or bite;
 - C. Any animal with a history, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of human beings or domestic animals;
 - D. Staffordshire terrier, American pit bull terrier, American Staffordshire terrier, or pit bull terrier breed of dogs; or dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs, or pit bull terriers; or any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier, or pit bull terrier,

† **EDITOR’S NOTE:** Certain other dangerous animals, listed in Section 717F.1, paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.

4. "Vicious animal" means:
 - A. Any animal that has bitten or attacked a person or persons without provocation while the animal was running at large;
 - B. Any animal that has exhibited vicious tendencies in present or past conduct, whether or not the animal was running at large, by: (i) biting a person or persons on two separate occasions; or (ii) biting any person once, causing injuries above the shoulders to the person; or (iii) biting any person on one occasion when the animal could not be controlled or restrained by the owner to prevent the bite; or (iv) attacking any domestic animal or fowl without provocation on two or more occasions within a 12-month period;
 - C. Any animal which has been found by the City Council to possess the characteristics of any of the definitions of a vicious animal as set forth herein, after hearing provided in Section 56.06;
 - D. Any animal that has been trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes;
 - E. Any animal trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of a law enforcement agency.

56.02 REGISTRATION REQUIRED.

1. All dangerous animals shall be registered with the City Clerk by an adult person responsible for the keeping of the animal. Failure or refusal to register each such animal, stating the animal's location and identifying characteristics, on forms provided by the City, shall constitute a violation of this Code of Ordinances. Failure to re-register if the animal's owner is changed, or the animal is moved to another location, or to report the animal as missing, shall also be a violation hereof.
2. The registration of an animal shall be renewed annually. The premises and facilities where such registered animals are kept shall be inspected annually, unless there is reason to believe animals are being improperly kept or cared for, in which case inspections may be made as the animal control officer deems necessary. The City Council may establish a schedule of fees to cover the costs of administration and inspection.
3. The registration of a dangerous animal shall be denied unless the person having custody, ownership, or control of such a dog or other animal first presents written proof of public liability insurance of not less than \$1,000,000.00, to the City Clerk.

56.03 CONFINEMENT STANDARDS. All dangerous animals shall be confined. A dangerous animal is unconfined as the term is used in this section if such animal is not:

1. Confined indoors; or
2. Confined outdoors in an enclosed and locked pen or structure, provided that the existence of such pen or structure is permitted by zoning regulations. Dangerous animals are not permitted in areas where such structures or pens are not authorized by zoning regulations. If permitted, such pen or structure shall be at least two lengths of

the animal wide, four lengths of the animal long, and two lengths of the animal high, and must be constructed with chain link fencing for all four sides and top, with a concrete floor.

56.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the animal control officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall the City have a duty to notify the owner of such animal prior to its destruction.

2. Upon the determination by the animal control officer that: (i) a person is keeping, sheltering, or harboring a dangerous animal on premises located in the City in violation of the registration requirements or confinement standards of this chapter; or (ii) a person keeping, sheltering, or harboring a dangerous animal is unable to keep the animal in compliance with the requirements of this chapter, thereby creating a risk of harm to the public, the animal control officer, at his or her discretion, shall, by written notice and order served personally or by certified mail upon the person keeping, sheltering, or harboring the dangerous animal, order the person to do either or both of the following:

A. Comply with any requirements of this chapter concerning dangerous animals within three days of receipt of the order; or

B. Safely remove such animal from the City or destroy the animal within three days of the receipt of such order.

3. A written order and notice shall not be required where any animal has caused physical harm or death to any person, in which case the animal will be deemed to be a dangerous animal. In such case, the animal control officer shall cause the animal to be immediately seized and impounded, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person. After seizure and impoundment of any such animal, the animal control officer may proceed under the notice and order provisions set forth in this section (as a dangerous animal), or under the notice provisions set forth in Section 56.06 (as a vicious animal).

4. The written order and notice issued by the animal control officer may be appealed to the City Administrator. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three days after receipt of the order contained in the notice and order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the animal control officer. If the order of the animal control officer is not appealed and is not complied with within three days, the animal control officer is authorized to immediately seize and impound such dangerous animal. Failure to comply with an order of the City issued pursuant hereto shall constitute a misdemeanor offense.

5. Notice of appeal of an order of the animal control officer shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled within 14 days of the receipt of notice of appeal. After such hearing, the City Administrator may affirm or

reverse the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing, or any continued sessions thereof.

6. If the City Administrator affirms the action of the animal control officer, the City Administrator shall issue a written decision ordering the individual or entity owning, sheltering, harboring, or keeping such dangerous animal to comply with the original order of the animal control officer within three days after service of the decision. The decision and order shall immediately be served upon the person or entity against whom the decision was rendered by personal service or by certified mail. If the order of the City Administrator after appeal is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound such dangerous animal. Failure to comply with an order of the City issued pursuant hereto shall constitute a misdemeanor offense.

7. Any animal seized under this section shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the animal control officer or the City Administrator was issued has not petitioned the court for a review of said order, the City shall cause the animal to be disposed of by sale, or destroyed in a humane manner.

56.05 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor for any reason within the City a vicious animal; provided, however, animals under the control of a law enforcement or military agency are exempt from this prohibition.

56.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF VICIOUS ANIMALS.

1. 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 herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the City Administrator. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the City Administrator determines that an animal is vicious, the person, firm, or corporation owning, sheltering, harboring, or keeping the animal shall be ordered to remove it from the City, or to cause it to be destroyed in a humane manner within three days. The order shall immediately be served upon the individual or entity owning, keeping, sheltering, or harboring the animal in question by personal service or by certified mail. If the order is not complied with within three days of its issuance, the animal control officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the City Administrator was issued has not petitioned the court for a review of said order, the animal control officer shall cause the animal to be destroyed.

3. Failure to comply with an order issued pursuant hereto shall constitute a misdemeanor offense.

4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the animal control officer may immediately destroy it. If the ownership of an animal found at large which displays vicious tendencies is not ascertainable, the animal control officer may destroy it after three days' impoundment.

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

56.07 VIOLATIONS.

1. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

2. It is prohibited for any person in any manner to interfere with any employee or designated representative of the City, so as to hinder, delay, or prevent such person's executing duties in relation to the matters and things contained in this chapter.

56.08 IMPOUNDMENT FEES. The owner of any animal impounded under this chapter, in addition to any charges for confinement and veterinary services incurred in the impoundment, shall pay impoundment fees to the City as established in Section 55.13 of this Code of Ordinances.

[The next page is 323]

CHAPTER 57

DOG LICENSE REQUIRED

57.01 Annual License Required

57.02 License Fees

57.03 Delinquency

57.04 License Tags

57.05 License Records

57.06 Immunization

57.07 Duplicate Tags

57.08 Transfers of Licensed Dogs

57.09 Kennel Dogs

57.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog over the age of six months shall procure a dog license from the Clerk on or before January 1 each year.
2. Such license may be procured after January 1 and at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of six months after said date.
3. The owner of a dog for which a license is required shall apply to the Clerk on forms provided by the City.
4. The form of the application shall state the breed, sex, age, color, markings and name, if any, of the dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog shall be revaccinated.
5. All licenses shall expire on January 1 of the year following the date of issuance.

57.02 LICENSE FEES. The annual license fee shall be as established by resolution of the Council.

57.03 DELINQUENCY. All license fees shall become delinquent on July 1 of the year in which they are due, and a delinquent penalty of \$1.00 shall be added to each unpaid license on and after said date.

57.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog for which issued. A license for one dog shall not be transferable to another dog. Upon the expiration of the license the owner shall remove said tag from the dog.

57.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog as specified in the application, together with the name of the owner of the dog.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

57.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog.

57.07 DUPLICATE TAGS. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$1.00 and the Clerk shall enter in the license record the new number assigned.

57.08 TRANSFERS OF LICENSED DOGS. Upon transfer of a licensed dog into the City, the owner shall surrender the original license tag to the Clerk. The Clerk shall preserve the surrendered tag and, without a license fee, issue a new license tag.

57.09 KENNEL DOGS. Dogs kept in State or federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

[The next page is 345]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Stuart 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 50 percent or more of the frontage thereon for a distance of 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 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the city not included in the business, school, or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

60.08 PARADES REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

1. Definition. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the City Administrator. 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 Firefighters. 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.

[The next page is 351]

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation of Traffic Control Devices
61.02 Compliance
61.03 Crosswalks

61.04 Traffic Lanes
61.05 Standards

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

(Code of Iowa, Sec. 321.254 & 321.255)

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 roadway, and at such other places as traffic conditions require.

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

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

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

61.05 STANDARDS. Traffic control devices shall comply with standards established by *The Manual of Uniform Traffic Control Devices for Streets and Highways*.

(Code of Iowa, Sec. 321.255)

o o o o o o o o o o

CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Closed Streets – School
62.08 Sound System Operation in Vehicle

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; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.
54. Section 321.298 – Meeting and turning to right.
55. Section 321.299 – Overtaking a vehicle.

56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.

90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.

124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.450 – Hazardous materials transportation.
150. Section 321.454 – Width of vehicles.
151. Section 321.455 – Projecting loads on passenger vehicles.
152. Section 321.456 – Height of vehicles; permits.
153. Section 321.457 – Maximum length.
154. Section 321.458 – Loading beyond front.
155. Section 321.460 – Spilling loads on highways.
156. Section 321.461 – Trailers and towed vehicles.
157. Section 321.462 – Drawbars and safety chains.
158. Section 321.463 – Maximum gross weight.

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

160. 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 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.

62.07 CLOSED STREETS – SCHOOL. Whenever authorized signs are erected indicating any street or part thereof as a closed street for school traffic only, no person shall drive a vehicle upon any such street or portion thereof except authorized school personnel.

62.08 SOUND SYSTEM OPERATION IN VEHICLE. No person operating or in control of a motor vehicle on a street or in a public place shall operate or permit the operation of a sound system in the vehicle so as to produce a vibration or sound that is clearly detectable at a distance of 50 feet from the vehicle between the hours of 7:00 a.m. and 7:00 p.m. or clearly detectable at a distance of 25 feet from the vehicle between the hours of 7:00 p.m. and 7:00 a.m. The scheduled fine for a violation of this section is:

1. First offense, \$50.00.
2. Second offense or subsequent offenses, \$150.00 each occurrence.

[The next page is 365]

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 20 miles per hour.
(Code of Iowa, Sec. 321.285[1])
2. Residence or School District – 25 miles per hour.
(Code of Iowa, Sec. 321.285[2])
3. Suburban District – 45 miles per hour.
(Code of Iowa, Sec. 321.285[3])
4. All vehicular traffic (notwithstanding any other speed restrictions – 55 miles per hour.
(Code of Iowa, Sec. 321.285[4])
5. Secondary roads – reasonable and proper speeds, but not greater than 55 miles per hour at any time between sunrise and sunset, and not greater than 50 miles per hour at any time between sunset and sunrise, unless such secondary roads are surfaced with concrete or asphalt or a combination of both, in which case the speed limits shall be the same as provided in subsection 4 of this section.
(Code of Iowa, Sec. 321.285[5])
6. Highways that are part of the interstate road system, as defined in Section 306.3 of the *Code of Iowa*, notwithstanding any other speed restrictions – 70 miles per hour.

(Code of Iowa, Sec. 321.285[6])

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

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

63.04 SPECIAL SPEED ZONES. In accordance with requirements of the Iowa Department of Transportation, or whenever the Council shall determine upon the basis of an

engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Front Street from Main Street to Gaines Street.
 - B. Division Street from South Seventh Street to North Third Street.
2. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Front Street from Main Street to the southeast corner of Lot Six of Block Thirteen in Severson's Addition to the Town of Stuart, Guthrie County, Iowa.
 - B. Front Street from Gaines Street to Western Street.
 - C. Division Street from Southwest Seventh Street south to a point south thereof 75 feet of the I-80 westbound on ramp.
 - D. Division Street from North Third Street to the north corporate limits.
 - E. South Seventh Street from Adair Street to Division Street.
3. Special 35 MPH School Speed Zone. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof during the time period in which the West Central Valley High School is officially in session:
 - A. Westbound lane of Front Street commencing at a point which is 460 feet west of the westerly drive of the West Central Valley High School and continuing east to a point which is 460 feet east of the easterly West Central Valley High School driveway, only during the following time periods:
 - (1) 7:30 a.m. to 8:30 a.m.
 - (2) 3:00 p.m. to 4:00 p.m.
4. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Front Street from the southeast corner of Lot 6 of Block 13 in Severson's Addition to the Town of Stuart, Guthrie County, Iowa, to the east corporate limits.
 - B. Front Street from Western Street to the west corporate limits.
 - C. Division Street from 75 feet of the I-80 westbound on ramp to Southeast 16th Street.
 - D. Westbound lane of Front Street from a point which is 440 feet west of the existing eastern most Stuart City Limits continuing west to All Saints Drive, except as provided in Section 63.04(3) entitled Special School Speed Zone.

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)

[The next page is 371]

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

1. Both the approach for a right turn and a left 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.

(Code of Iowa, Sec. 321.311)

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

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

o o o o o o o o o

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians in Crosswalks

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

65.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 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)

[The next page is 381]

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges
66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

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

(Code of Iowa, Sec. 321.471)

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

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

(Code of Iowa, Sec. 321.473)

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

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

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

o o o o o o o o o o

CHAPTER 68

ONE-WAY TRAFFIC

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

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

o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Parking on One-Way Streets
69.04 Angle Parking
69.05 Manner of Angle Parking
69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited
69.08 Persons With Disabilities Parking
69.09 Truck Parking Limited
69.10 Snow Removal
69.11 Snow Routes

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 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 PARKING ON ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. North Second Street, on both sides, from Gaines Street to Harrison Street.
2. Division Street, on both sides, from Front Street to North Second Street.
3. Division Street, on the east side, from North Second Street to a point approximately 80 feet north.
4. Division Street, on the east side, from South Third Street to a point approximately 40 feet north.

69.05 MANNER OF ANGLE PARKING. 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 said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 hours, unless otherwise limited under the provisions of Section 69.01 of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within 20 feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

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

19. Controlled Access Facility Approach. On the minor street approach for a distance of 35 feet in advance of the stop sign or on the exit side of the minor street for a distance of 35 feet beyond the crosswalk of any controlled access facility intersection.

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

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

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

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

- A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;
 - B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*;
 - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
- A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

- 1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within a Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
- 2. All Night. No such vehicle shall be left unattended or parked upon any street or alley between the hours of 12:00 midnight and 6:00 a.m. of any day.
- 3. Noise. No such vehicle shall be left standing or parked upon any public or private parking lot or drive of any service station between the hours of 12:00 midnight and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.
- 4. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

69.10 SNOW REMOVAL. During all periods of snowfall, where accumulation is apparent, and at any time when snow removal operations are in progress, no person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area from November 1 to April 1.

(Code of Iowa, 321.236[1])

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

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

[The next page is 405]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Habitual Parking Violator

70.05 Parking Violations: Vehicle Unattended

70.06 Presumption in Reference to Illegal Parking

70.07 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of \$25.00 for snow route parking violations and \$15.00 for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The simple notice of a fine for improper use of a persons with disabilities parking permit is \$100.00.

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

70.04 HABITUAL PARKING VIOLATOR.

1. For the purposes of this section, a delinquent parking ticket is a simple notice of a fine which has not been paid within 30 days of the date upon which the violation occurred. Any person who has four or more delinquent parking tickets issued on a single motor vehicle shall be deemed to be a habitual violator.
2. No habitual violator shall park a vehicle and permit it to remain standing upon any street, public alley, public parking lot, or highway in the City when there are four or more delinquent parking tickets outstanding against that vehicle.
3. A violation of this section shall place such vehicle in the status of an illegally parked vehicle and the vehicle may be impounded pursuant to Section 70.07. When a vehicle has been impounded, the registered owner of the vehicle shall be sent, by certified mail, to the owner's last known address of record, within 72 hours of impoundment, excluding weekends and holidays, a notice of said impoundment along with a description of any personal property contained within the vehicle and of the

right to a hearing. Notice personally presented within said period to said owner or person having a legal entitlement to possession shall satisfy the mailing requirement.

4. The registered owner or person having a legal entitlement of possession of a motor vehicle impounded pursuant to this section may claim the vehicle by appearing personally in the office of the City Clerk and paying, in full, all delinquent parking tickets. The City Clerk shall then provide the registered owner or person having a legal entitlement to possession of the motor vehicle, a written release to be presented to the towing-impoundment entity which shall, upon payment of all towing and storage fees by the registered owner or person having legal entitlement or possession of the motor vehicle, enable the individual to possession of the vehicle.

5. If an impounded vehicle is not claimed by the owner within 10 days after impoundment, the unclaimed vehicle shall be placed in the status of and shall be deemed an abandoned vehicle as provided by State law and Chapter 80 of this Code of Ordinances.

70.05 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.

70.06 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.

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

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

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

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

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

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

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

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

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

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

[The next page is 425]

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.08 Hours of Operation

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 vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

A. “Off-road utility vehicle – type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – type 2” includes vehicles, other than type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or

less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.
6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.
7. Thaw Ban. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.
8. Dead Man Throttle. No snowmobile shall be operated within the City unless equipped with a “dead man throttle” which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

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 and off-road utility vehicles 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 operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.08 HOURS OF OPERATION. No snowmobile or ATV shall be operated in the City between the hours of 10:00 p.m. and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 77

SKATES AND SKATEBOARDS

77.01 Purpose
77.02 Definitions

77.03 Prohibition
77.04 Special Penalty

77.01 PURPOSE. The purpose of this chapter is to establish regulations governing the operation of roller skates, in-line skates, skateboards, scooters, and any self-controlled apparatus upon the sidewalks, walkways, or ramps in the Central Business District of the City.

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

1. "Business District" includes the following locations:
 - A. North Division Street from Third Street to Front Street.
 - B. Northwest Second Street from North Gaines Street to North Division Street.
 - C. Northeast Second Street from North Division Street to North Fremont Street.
2. "Ramp" means any sloping or inclining surface and specifically includes any area in the Business District of the City which is surfaced or paved with concrete in order to facilitate access such as (but not limited to) persons with disabilities accessibility.
3. "Roller skates" or "in-line skates" means skates with wheels instead of a runner.
4. "Scooter" means a single platform mounted on wheels, and steered by extended handles which can be propelled by human power or by motorized power.
5. "Skateboard" means a single platform mounted on wheels, which are propelled solely by human power, and which has no mechanism or other device with which to steer or to control the movement or direction of the platform.

77.03 PROHIBITION. No person shall use or ride any roller skates, in-line skates, skateboards, scooters, or any other self-controlled apparatus upon the sidewalks, walkways, or ramps in the Central Business District of the City.

77.04 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violation of this Code of Ordinances, suffer his or her skateboard, scooter, rollerblades, and/or in-line skates to be impounded by the City for not less than five days for the first offense, 10 days for a second offense, and 30 days for a third offense.

[The next page is 451]

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 24 hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 10 days. However, a police authority may declare the vehicle abandoned within the 10-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or

hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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 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. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving 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 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 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])

[The next page is 475]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 BOARD OF TRUSTEES. The management and control of the City's Water Utility are the responsibility of the Utility Board of Trustees established and operated as described in Chapter 24 of this Code of Ordinances.

o o o o o o o o o o

CHAPTER 91

WATER CONSERVATION

91.01 Purpose	91.08 Increased Rates
91.02 Mayor Determination	91.09 Water Emergency
91.03 Water Shortages	91.10 Premium Rate for Imprudent Consumption
91.04 Conditions	91.11 Adjustment Of Premium Rate Charges
91.05 Water Watch	91.12 Water Appeal Board
91.06 Water Warning – Tier I	91.13 Municipal Infraction
91.07 Water Warning – Tier II	91.14 Publication Notice

91.01 PURPOSE. It is hereby declared, because of conditions that may prevail in the City, that the general welfare of the citizens of the City requires that water resources available to it be put to maximum beneficial use to the extent to which the same are capable.

91.02 MAYOR DETERMINATION. The Mayor is hereby authorized and directed to implement the applicable provisions of this chapter upon the determination that such implementation is necessary to protect the public welfare and safety. Prior to the implementation of any action as provided below, unless the emergency does not permit sufficient time, the Clerk shall give notice of the action of the Mayor in a newspaper of general circulation within the City, pursuant to Section 362.3 of the *Code of Iowa*.

91.03 WATER SHORTAGES. From time to time during the following described drought conditions or due to equipment failure, when the City water supply may become significantly and seriously depleted so that there will not then be sufficient supply of water to meet the customary and usual demands of the City, the Mayor may find and declare in writing a public Water Watch, Water Warning, or Water Emergency, during which time the measures and provisions hereinafter provided shall be in effect to produce an orderly and equitable reduction of water consumption until by declaration the Mayor declares the water shortage condition to be ended.

91.04 CONDITIONS.

1. Water Watch. A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Watch include:
 - A. Municipal water system operating at 75 percent of pumping capacity.
 - B. Moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells.
2. Water Warning. A Tier I or Tier II Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future.
 - A. Indicators of the need to impose a Tier I Water Warning include:
 - (1) System operating at 85 percent of pumping capacity.
 - (2) Significant decrease in the pumping water level of wells or significant decrease in recovery rate of water level in wells.

- B. Indicators of the need to impose a Tier II Water Warning include severe system failures in wells, feeder mains, or treatment plant.
3. Water Emergency. A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include:
- A. System operating at 95 percent of pumping capacity.
 - B. Serious decrease in the recovery rate of water level in wells.

91.05 WATER WATCH. Under a Water Watch, all customers of the municipal water service are encouraged to curtail all nonessential uses of water in order to conserve precious water resources during the time of shortage. Customers may be encouraged to comply with the following voluntary standards:

1. No watering of lawns, shrubs, or gardens between the hours of 8:00 a.m. and 8:00 p.m.
2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pools or ponds.
3. No water should be used to wash streets, parking lots, driveways, sidewalks, or building exteriors.
4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery, and interior spaces.
5. Water should be served at restaurants only upon the request of the customer.

91.06 WATER WARNING – TIER I. Under a Tier I Water Warning, no customer of the municipal water system shall use potable processed water of the municipal water service in any manner contrary to the following:

1. All outdoor watering or irrigation of lawns is prohibited.
2. All outdoor watering of any kind is prohibited between the hours of 8:00 a.m. and 8:00 p.m. daily.
3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four years old and new seedlings or sod is permitted once per week with an application not to exceed one inch.
4. Car washing is prohibited except in commercial establishments that provide that service.
5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools, or any other outdoor pool or pond.
6. No water shall be used to wash streets, parking lots, driveways, sidewalks, or building exteriors.
7. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery, and interior spaces.
8. Water shall be served in restaurants only upon the request of the customer.
9. Use of water-consuming comfort air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.

10. There shall be no tank-load water sales.
11. Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from sources other than the City water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

91.07 WATER WARNING – TIER II. Under a Tier II Water Warning, no person shall use potable processed water of the municipal water service in any manner contrary to the following:

1. All outside water use, except for domestic, sanitation, and fire, is prohibited.
2. All commercial and industrial uses of water not essential in providing products or services are prohibited.
3. Irrigation of agricultural crops is prohibited.
4. Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational uses, is prohibited.
5. Water use not necessary for the preservation of life or the general welfare of the community is prohibited.

91.08 INCREASED RATES. The Utility Board of Trustees of the City is hereby authorized pursuant to its statutory authority and this chapter to apply the following actions and additional rates for violation of Water Warnings use restrictions imposed under this chapter.

1. **First Violation.** For a first violation, the utility, acting through its Superintendent, shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.
2. **Second Violation.** For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the customer's previous month's water bill, not to exceed \$100.00.
3. **Subsequent Violations.** For any subsequent violations within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the customer's previous month's water bill, and in addition, the utility may adopt rules to authorize the interruption of water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of Water Warning or Water Emergency use restrictions will not occur. The penalty described shall not exceed \$200.00 per month.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Council. The Council may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

91.09 WATER EMERGENCY. Under a Water Emergency, Tier I Water Warning use restrictions shall be in effect and, in addition, each customer will be limited to a monthly base allocation of water.

1. Base Allocation. The base allocation of water for residential use shall be 3,000 gallons per household per billing. For commercial, industrial, or institutional use, the allocation shall be established by resolution as a percentage of the average water used during the previous winter (that is, the period from November through April).

2. Appeal and Adjustment of the Base Allocation. Pursuant to the authorization of this chapter, any person may file an appeal with the Utility Board of Trustees of the City to adjust the base allocation amount. The Board is granted the power to adjust such allocation and may grant an adjustment to the appellant based upon the following criteria:

A. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than 30 days.

B. For commercial, industrial, institutional, or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer; such as usage, production, service, and occupancy data provided by the customer.

91.10 PREMIUM RATE FOR IMPRUDENT CONSUMPTION. In addition to the water rates enacted by the Utility Board of Trustees, the Board is authorized and may require by resolution that all customers shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation, provided that such charge shall not exceed \$100.00 for the first excessive use and \$200.00 for each subsequent excessive use.

91.11 ADJUSTMENT OF PREMIUM RATE CHARGES. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Council. The Council may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustments may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for overconsumption due to human carelessness.

2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a plumber's invoice or statement or a materials receipt.

3. The adjustment shall be granted only for the billing period prior to the correction of the failure.

4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be 40 percent of the actual bill which shall include the premium rate charges and sales tax.

91.12 WATER APPEAL BOARD. The City Council shall constitute the Water Appeal Board. As the appeal board, they shall take action pursuant to a Water Warning or Water Emergency, except that if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Section 364.22 of the *Code of Iowa*, in the Iowa District Court.

91.13 MUNICIPAL INFRACTION. A second or subsequent violation of the Water Warning or Water Emergency use restriction, as defined in Sections 91.06, 91.07 and 91.09 of

this chapter, by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

91.14 PUBLICATION NOTICE. If public notice is deemed required or any action taken by the Council enforcing or commencing any of the water proceedings as provided in this chapter, then the same shall be published as provided by Section 362.3 of the *Code of Iowa*.

[The next page is 501]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet 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 15 persons (1,500 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 ground waters 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 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 100 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

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

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee
96.03 Plumber Required
96.04 Connection Requirements
96.05 Sewer Tap

96.06 Excavations
96.07 Inspection Required
96.08 Property Owner's Responsibility
96.09 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 30 days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee, in an amount established by resolution of the Council, to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

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 Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

96.05 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.06 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with the provisions of the *International Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

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

96.08 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.

96.09 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])

[The next page is 511]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to be in 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 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.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) 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.

B. 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: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) 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 150 degrees F.
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F.
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 inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Special Rates

99.03 Private Water Systems

99.04 Payment of Bills

99.05 Lien for Nonpayment

99.06 Lien Exemption

99.07 Lien Notice

99.08 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. First 4,000 gallons or lesser amount of water consumed per month @ \$32.20 (minimum bill).
2. All over 4,000 gallons consumed per month @ \$3.30 per 1,000 gallons.

99.02 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 99.01 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)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable as part of a combined service account under the same terms and conditions as payment for water and electric services, as established by the Utility Board of Trustees.

99.05 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.06 LIEN EXEMPTION.

1. Exemption. The lien for nonpayment shall not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding

the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership.

3. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in subsection 1 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

99.07 LIEN NOTICE. A lien for delinquent sewer service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

99.08 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

SEWER CONNECTION CHARGES

100.01 Fee Imposed

100.02 Sanitary Sewer Service Area Designated

100.03 Minimum Cost of Construction

100.04 Lateral Connections

100.05 Connection Required

100.06 Sewer Connection Fee To Be Paid

100.07 Amount of Fee

100.08 Filing with County Recorders

100.09 Hearing on Establishment of Sanitary Sewer Service Designated Area

100.01 FEE IMPOSED. The Council has determined that it is in the public interest that a portion of the cost of constructing certain public improvements to the sanitary sewer system which have not been subject to the special assessment be defrayed by the imposition of a fee for connection to such lines.

100.02 SANITARY SEWER SERVICE AREA DESIGNATED. The Council may by resolution designate one or more areas of the City as a Sanitary Sewer Service Designated Area. No portion of the City shall be designated unless the City shall have extended a sanitary sewer service trunk or collection line into the area without specially assessing owners of land benefited, or to be benefited, from the construction of such a line for the cost of the construction of said line. No portion of the City designated as a Sewer Service Designated Area may contain less than four acres, but shall include all land which the Council legislatively determines as benefited from the construction of a sanitary sewer service trunk or collection line.

100.03 MINIMUM COST OF CONSTRUCTION. The Council shall not designate any area of the City as a Sanitary Sewer Service Designated Area unless the cost of construction of the sanitary sewer service or trunk line shall have exceeded \$20,000.00 including all actual construction costs, engineering, and other direct fees.

100.04 LATERAL CONNECTIONS. For purposes of this chapter, connection to a lateral or other service line which utilizes the trunk or service line within the Sanitary Sewer Service Designated Area is a connection to the sanitary sewer trunk or service line for which the owner or other person seeking to connect shall pay a connection fee.

100.05 CONNECTION REQUIRED. Each person owning land in a Sanitary Sewer Service Designated Area shall connect any improvement which generates sewage from human usage to the sanitary service lines within the Sanitary Sewer Service Designated Area when sewer service is available to the property under rules established by the City Engineer or the ordinances of the City. Sanitary sewer connection fees shall be paid before any actual physical connection is made.

100.06 SEWER CONNECTION FEE TO BE PAID. Whenever any person owning land within a Sanitary Sewer Service Designated Area makes an improvement which requires sanitary sewer service, such owner shall in the course of construction make such connection and pay the sanitary sewer connection fee provided in this chapter.

100.07 AMOUNT OF FEE. Connection fees for each sanitary sewer connection within any Sanitary Sewer Service Designated Area are hereby imposed, as follows:

1. \$1,000.00 for each connection by a commercial user.

2. \$1,000.00 for each connection by an industrial user.
3. \$250.00 for each connection by a residential user.

For purposes of this section, a commercial user means a user of real estate for commercial uses and an industrial user means a user of real estate for industrial uses as set out in Chapter 165 of this Code of Ordinances. All other users shall be considered residential. The connection fee is solely an administrative cost to defray City expenses in regard to the construction of sewers. All actual construction costs of each connection to a sanitary sewer shall be paid entirely by the owner.

100.08 FILING WITH COUNTY RECORDERS. A copy of the ordinance codified in this chapter shall be filed with the Guthrie and Adair County Recorders. In addition, any resolution establishing a Sanitary Sewer Service Designated Area shall be filed in the office of the County Recorder of each county in which any portion of the Sanitary Sewer Service Designated Area is located.

100.09 HEARING ON ESTABLISHMENT OF SANITARY SEWER SERVICE DESIGNATED AREA. Prior to adoption of any resolution establishing a Sanitary Sewer Designated Area, the Council shall hold a public hearing, upon published notice as required by Section 362.3 of the *Code of Iowa*. The notice shall set forth the date, place and time of hearing, together with a description of the area proposed to be included in the Sanitary Sewer Service Designated Area and a statement that property within the area will be required to pay a connection fee for connecting to a sanitary sewer in the amounts established in this chapter. In addition, a copy of the notice of hearing shall be sent by ordinary mail to each property owner in the proposed Sanitary Sewer Service Designated Area.

[The next page is 535]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited
105.08 Toxic and Hazardous Waste
105.09 Waste Storage Containers
105.10 Prohibited Practices
105.11 Recycling Program
105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
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 not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
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. “Residential premises” means a single-family dwelling, which may include a maximum of two separate family dwellings. Multi-family dwellings, apartment complexes, and row-type housing units are considered residential premises regardless of the total number of such apartments or units, but may be handled as a commercial account if the City chooses.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. “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)

13. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than 30

days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack unless conducting such burning in accordance with the *International Fire Code*.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in degradable bags, containers or packages, as required by the City, and set out for collection. Yard waste shall be collected by the City at such times as established by the Council. Yard waste must be placed three to six feet from other solid waste awaiting collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.09 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be no more than 33 gallons in capacity and shall be leak-proof and waterproof. The total

weight of any container and contents shall not exceed 65 pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;
- (2) Have handles, bails, or other suitable lifting devices or features;
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;
- (4) Be of lightweight and sturdy construction.

Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.10 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain

little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material at the City recycling bins. All recyclable material shall be separated and deposited at the recycling bins in accordance with the rules and regulations as established by the Council. It is unlawful for any person to dispose of any solid waste, except recyclable material, in the City recycling bins.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. All solid waste, other than hazardous waste, generated by residential, commercial, industrial, or institutional premises, within the City limits shall be delivered to the Adair County Landfill and Recycling Center, or such other landfill as the City may formally designate from time to time.

[The next page is 545]

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fee
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEE. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee. The fee for solid waste collection and disposal service, used or available, is \$14.25 per month for each residential premises and for each dwelling unit of a multiple-family dwelling for the collection of two 33-gallon bags or containers, not exceeding 130 pounds, each week. Each additional bag or 65 pounds of solid waste set out for collection must have a City sticker attached thereto.
2. Payment of Bills. All fees are due and payable as part of a combined service account under the same terms and conditions as payment for water and electric services, as established by the Utility Board of Trustees.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 99.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified to the County Treasurer for collection in the same manner as property taxes and the provisions contained in Section 99.07 relating to lien notices shall also apply in the event of a delinquent account..

[The next page is 565]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise

110.02 State Code Restrictions and Limitations

110.03 Location

110.04 Relocation of Property

110.05 Restoration of Property

110.06 Indemnification

110.07 Extension of System

110.08 Standards of Operation

110.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain, and operate in the City a gas distribution system, to furnish natural gas along, under, and upon the streets, avenues, alleys, and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. The franchise shall be effective for a 25-year period beginning on the effective date of the ordinance codified in this chapter.[†]

110.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

110.03 LOCATION. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing, or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain, or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 RELOCATION OF PROPERTY. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley, or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s cost of relocation, the City shall select the route that requires the other franchisees or users to relocate.

110.05 RESTORATION OF PROPERTY. In making excavations in any streets, avenues, alleys, and public places for the installation of gas pipes, conduits, or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

[†] **EDITOR’S NOTE:** Ordinance No. 04-02C, adopting a natural gas franchise for the City, was passed and adopted on February 9, 2004.

110.06 INDEMNIFICATION. Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by the exercise by the Company of the privileges, rights, and franchise granted hereby, or caused by construction, reconstruction, excavation, operation, or maintenance of the gas utilities authorized by this chapter; provided, however, the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.07 EXTENSION OF SYSTEM. The Company shall extend its mains and pipes, and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.08 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

[The next page is 571]

CHAPTER 111

CABLE TELEVISION REGULATIONS

111.01 Definitions	111.21 Performance Standards
111.02 Use of Property	111.22 Channel Capacity and Performance
111.03 Taxes	111.23 Installation and Maintenance of Subscriber Terminals in City Buildings and Schools
111.04 Insurance	111.24 Telecast of Educational Activities
111.05 Repairs	111.25 Program Alteration
111.06 Hold Harmless	111.26 Subscriber Rates and Charges
111.07 Assignment	111.27 Service Rules and Regulations
111.08 Insolvency of Grantee	111.28 Service Agreements
111.09 Default of Grantee	111.29 Payments to City
111.10 Termination	111.30 Injury To Property of the Grantee
111.11 Compliance with Applicable Laws	111.31 Intercepting Signals of the Grantee
111.12 Installation and Maintenance of Property of the Grantee	111.32 Filing of Reports
111.13 Interference	111.33 Filing of Maps and Plats
111.14 Installation of Cables	111.34 Filing of Communications with Regulatory Agencies
111.15 Restoration of Ground Surface	111.35 Access
111.16 Alteration of Grade	111.36 Discrimination Prohibited
111.17 Temporary Removal of Cables	111.37 Other Business Activities Prohibited
111.18 Tree Trimming	111.38 Arbitration
111.19 Line Extensions	111.39 Reservations
111.20 Service Requirements	

111.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable television system” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means the operator of the cable television system, its successors, and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. “Property of the Grantee” means all property, real, personal, or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.
7. “Public property” means all property, real, or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

111.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance

of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system, subject, however, to the following restrictions:

1. **Laws and Regulations.** The Grantee shall comply with all governmental laws, ordinances, rules, or regulations as may now or hereafter be applicable thereto.
2. **Restrictions.** The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
 - A. Impair the owner's interest in or title thereto;
 - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
 - C. Adversely affect the then value or character thereof;
 - D. Cause or be likely to cause structural damage thereto, or any part thereof;
 - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
 - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
 - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
 - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto;

111.03 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees, and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

111.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry, and require their contractors to carry:

1. **General Liability.** Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance in connection with the cable television system. The amount of such insurance shall be not less than \$100,000.00 as to any one person, \$300,000.00 as to any one occurrence for injury or death to persons, and \$100,000.00 for damages to property, with, as to Grantee, so-called umbrella coverage of at least \$5,000,000.00.
2. **Worker's Compensation.** Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.
3. **Automobile.** Automobile Insurance with limits of not less than \$100,000.00/\$300,000.00 of public liability coverage and automobile property

damage insurance with a limit of not less than \$100,000.00 covering all automotive equipment, with, as to Grantee, so-called umbrella coverage of at least \$5,000,000.00.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten-day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties, or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

111.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

111.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly:

1. Injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or
2. The nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or
3. The nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or
4. The granting of the franchise.

111.07 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary is a general partner without the prior consent of the City.

111.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within 60 days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

111.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within 30 days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

111.10 TERMINATION. Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

111.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

111.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

111.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered, and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

111.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises within the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have both installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

111.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

111.16 ALTERATION OF GRADE. In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

111.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five days' advance notice to arrange for such temporary cable changes.

111.18 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

111.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of 35 homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

111.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate, and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

111.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

111.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

111.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such locations within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

111.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

111.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

111.26 SUBSCRIBER RATES AND CHARGES. All rates for service shall be reasonable, compensatory, and nondiscriminatory. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege, and authority to change the rates and charges.

111.27 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

111.28 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

111.29 PAYMENTS TO CITY. The Grantee shall pay to the City one percent of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. All payments as required by the Grantee to the City shall be made annually and shall be due 45 days after the close of the year. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provisions of program production services, per channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, or provisions of commercial services such as security systems.

111.30 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

111.31 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

111.32 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

111.33 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

111.34 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications, and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

111.35 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

111.36 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

111.37 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting, or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

111.38 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties, and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 111.10. Such arbitration shall be before three disinterested arbitrators, one named by the City, one named by the Grantee, and one named by the two thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

111.39 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations, as it shall find necessary in the exercise of the police power.

[The next page is 601]

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council

120.05 Prohibited Sales and Acts
120.06 Outdoor Service Areas
120.07 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or

permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 OUTDOOR SERVICE AREAS. No application for a liquor control license or retail wine or beer permit, which includes an application for an Outdoor Service Area, also known as a Beer Garden, shall be approved by the Council unless the following criteria are met by the licensee:

1. The Beer Garden shall abut on and be part of the premises included in the operator's liquor license.

2. All boundaries of the Beer Garden not constituting walls of abutting buildings shall be fenced with a fence not less than eight feet in height to prevent drinks or other items from being passed over the top of the fence. The fence should be made of material with openings sufficiently large enough to be seen through and sufficiently small enough to prevent beverage containers from being passed through the openings. The fencing shall be removed or slid open when the Beer Garden is not being operated. The fence shall include at least one gate or door that shall open outward for safety issues.

3. The Beer Garden shall be inspected by the Police Chief prior to the issuance of the Beer Garden permit. The Police Chief shall certify to the Council the applicant's compliance with this section.

4. At least one adult, competent, sober employee of the operator shall be on duty in the Beer Garden while the Beer Garden is in operation.

5. A Beer Garden shall not be operated outside State guidelines and shall comply with the Residential Property Noise Limits contained in Section 52.03 of this Code of Ordinances.

6. The Beer Garden shall be kept free of debris and litter at all times.

120.07 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a

registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

[The next page is 607]

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. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “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.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “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.
6. “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.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product”

includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

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 days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within 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, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 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 Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

[The next page is 615]

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.09 License Not Transferable
122.02 Definitions	122.10 Time Restriction
122.03 License Required	122.11 Site Requirements
122.04 Application for License	122.12 Rebates
122.05 License Fees	122.13 License Exemptions
122.06 Bond Required	122.14 Charitable and Nonprofit Organizations
122.07 License Issued	122.15 Suspension or Revocation of License
122.08 Display of License	

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.

1. Except for those exempt activities identified in Section 122.13, every person engaging in peddling, soliciting or in the business of a transient merchant shall, before offering for sale any goods, wares or merchandise in the City, obtain a license from the City Clerk as provided in this chapter.
2. A three-day transient merchant license shall permit the operation of the licensed business at the licensed premises during any three days in the specified month or months. A 30-day transient merchant license shall permit the operation of the licensed business at the licensed premises during 30 consecutive days. An annual transient merchant license shall permit the operation of the licensed business at the licensed premises during more than 30 consecutive days during the calendar year.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name,

permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of \$5.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$10.00 per year.
2. Peddlers.
 - A. For one day.....\$ 100.00
 - B. For one week.....\$ 500.00
 - C. For up to six months.....\$5,000.00
 - D. For one year or major part thereof.....\$7,500.00
3. Transient Merchants.
 - A. Any three days per month license \$ 50.00 (one month only)
 - B. Any three days per month license \$ 150.00 (12 months)
 - C. Thirty consecutive days license..... \$ 150.00
 - D. Annual license \$ 5,000.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant’s license in the merchant’s place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

122.11 SITE REQUIREMENTS. A transient merchant license shall not be issued unless the licensed premises upon which the transient merchant operates satisfies the following requirements. A transient merchant shall maintain the licensed premises in a condition that satisfies the following requirements for the duration of the license.

1. All Licensed Premises. The licensed premises for all transient merchants shall conform with the following requirements:
 - A. All applicable requirements of this chapter, this Code of Ordinances, the Iowa Code and the Iowa Administrative Code.
 - B. The licensed premises must be within a commercial or industrial zoning district.
 - C. The licensed premises cannot be upon a parcel having a residential use as its principal use.
 - D. Only one transient merchant at a time may operate upon a parcel. A transient merchant license shall not be issued for the operation of more than one transient merchant on a parcel on the same day, unless otherwise specifically allowed by the City Clerk.
2. Additional Requirements for a Food Service Establishment. The licensed premises for any transient merchant which operates as a food service establishment shall conform to the following additional requirements:
 - A. The business shall comply with the requirements established by Iowa Administrative Code §481-31.7 for a mobile food unit/pushcarts.
 - B. Bathroom facilities must be provided for the business workers and customers on the licensed premises or by agreement for the use of bathroom facilities located within 500 feet of the licensed facilities.

122.12 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 \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.13 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 West Central Valley Community 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.

122.14 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of

Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

122.15 SUSPENSION OR REVOCATION OF LICENSE.

1. Whenever the City Clerk finds that the licensee or the licensee's employees or agents has furnished any false information required under this chapter, has violated or failed to comply with any of the requirements of this chapter or any other chapter of this Code of Ordinances, or has otherwise conducted the business in an unlawful manner, the City Clerk may give notice to the licensee of the City's intent to suspend or revoke the license.
2. Notice of the City's intent to suspend or revoke a license shall be served upon the licensee by personal service or by service upon a cashier for the business at a licensed premises, or by regular mail addressed to the licensee at the licensee's business address as shown on the application, a minimum of five days prior to the date set for the hearing. Such notice shall inform the licensee of the time, date and place of a hearing before a hearing officer when the suspension or revocation shall be considered and shall set out briefly the reasons therefore.
3. If, after such hearing, the hearing officer makes a finding based on substantial evidence that a violation of this chapter or another chapter of this Code of Ordinances did in fact take place as alleged, the hearing officer may suspend or revoke the license or deny it renewal; the determination of whether to so suspend, revoke or deny such license shall be in the discretion of the hearing officer and shall be dependent upon the circumstances surrounding the violation and its severity. The hearing officer may continue the hearing for good cause shown.
4. The applicant may appeal the decision of the hearing officer to the City Council by filing a written notice of appeal with the City Clerk within ten days after the decision is entered of record. Failure to timely file such written notice of appeal shall constitute a waiver of the right to appeal the decision of the hearing officer. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk.
5. The hearing on an appeal to the City Council shall be scheduled within 20 days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing the City Council may affirm or reverse the decision of the hearing officer. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing or any continued session thereof. The hearing shall be confined to the record made before the hearing officer, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the hearing officer and any other information the City Council deems necessary.

6. A licensee whose license has been revoked shall not be eligible for another such license for a period of 180 days after such revocation.

[The next page is 623]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than 100 square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$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. Occurrence Limit – \$5,000.00 any one person; \$100,000.00 any one premises; \$1,000,000.00 each occurrence limit.
2. Personal and Advertising Injury Limit – \$1,000,000.00 any one person or organization.
3. General Aggregate Limits - \$2,000,000.00.

123.06 PERMIT FEE. A permit fee of \$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 flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

[The next page is 629]

CHAPTER 124

HOTEL/MOTEL TAX

124.01 Tax Imposed

124.02 Definitions

124.03 Collection

124.04 Use of Revenue

124.01 TAX IMPOSED. There is imposed a five percent hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State.

(Code of Iowa, Sec. 423A.1)

124.02 DEFINITIONS. “Renting” and “rent,” as used in this chapter, include any kind of direct or indirect charge for the use of sleeping rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the sales price from the renting of a sleeping room, apartment or sleeping quarters while rented by the same person for a period of more than 31 consecutive days.

(Code of Iowa, Sec. 423A.1)

124.03 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.1)

124.04 USE OF REVENUE. The revenue derived from the tax imposed by this chapter shall be used pursuant to the provisions of Chapter 423A of the *Code of Iowa*.

o o o o o o o o o o

CHAPTER 125

SALVAGE DEALERS AND YARDS

125.01 Definitions	125.09 Examination of Premises and Records
125.02 License Required	125.10 Segregation of Specific Items
125.03 License Fee	125.11 Concealing Articles to Prevent Identification
125.04 Duration of License	125.12 Disposing of Stolen Goods or Goods for Which There Is Adverse Claim
125.05 Application for License	125.13 Clerks, Agents and Employees
125.06 Issuance and Contents of License	125.14 Enclosure Required
125.07 License for Each Place of Business	125.15 Conditions Subject to Abatement
125.08 Record Keeping by Salvage Dealers	

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

1. “Inoperable motor vehicle” means any motor vehicle which lacks: (i) current registration; or (ii) two or more wheels or other component parts the absence of which renders the vehicle totally unfit for legal use on the highways.
2. “Junk” means all old or scrap copper, brass, lead or any other nonferrous metal; old rope, rags, batteries, paper, trash, rubber debris, waste, used lumber or salvaged wood; dismantled or inoperable vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous material; old discarded glass, tinware, plastic or old discarded household goods or hardware.
3. “Junk yard” means any place not fully enclosed in a building, excluding a salvage yard, which is used in whole or in part for the storage or deposit of junk encompassing either: (i) an area of 200 square feet or more; or (ii) two or more inoperable motor vehicles or used parts and materials thereof, which taken together equal the bulk of two or more motor vehicles.
4. “Salvage dealer” means any person who buys, sells, transfers, delivers or stores junk, including all persons who carry on such business at a shop, a salvage yard or as a peddler, and any person who by advertisement, sign or otherwise holds himself or herself out as a salvage dealer, or dealer in old or discarded metals, machinery, rags, paper stock and the like.
5. “Salvage yard” means any place not fully enclosed within a building where a salvage dealer, in connection with the salvage dealer business, stores or deposits junk encompassing either: (i) an area of 200 square feet or more; or (ii) two or more inoperable motor vehicles or used parts and materials thereof, which taken together equal the bulk of two or more motor vehicles.

125.02 LICENSE REQUIRED. No person shall carry on the business of salvage dealer in the City without first paying the license fee and procuring a salvage dealer’s license.

125.03 LICENSE FEE. Every salvage dealer shall pay each year to the City a license fee of \$150.00 and shall be granted a license by the City Clerk after receiving a certificate of compliance from the Police Department and Fire Department.

125.04 DURATION OF LICENSE. All salvage dealers' licenses granted under this chapter shall expire on the last day of March next after they are issued.

125.05 APPLICATION FOR LICENSE. Application for a salvage dealer's license under this chapter shall be made in writing by regular mail to the Clerk at least 60 days prior to the date of issuance of such license. Upon such application the Clerk shall request the Police and Fire Departments to inspect the premises for which the applicant seeks a license and, if the premises complies with applicable statutes and ordinances, to send a certificate of compliance to the Clerk before the date for the issuance of the license.

125.06 ISSUANCE AND CONTENTS OF LICENSE. Upon receiving the license fee and the certificate of compliance as required by this chapter, the Clerk shall issue a license to the applicant which shall state the name and place of residence of the person licensed, the business to be transacted, the address of the premises covered by the license, the date when issued and the date when it will expire.

125.07 LICENSE FOR EACH PLACE OF BUSINESS. Any person conducting several or separate places of business as a salvage dealer shall pay the license fee and procure a license for each such place. The license for the premises shall be conspicuously displayed as such premises.

125.08 RECORD KEEPING BY SALVAGE DEALERS. Each salvage dealer shall keep complete, accurate, and legible records in the English language of all purchases, such record to include:

1. The name and residence of the person from whom received or purchased.
2. Reasonably accurate inventory and description of each article.
3. The value of amount paid for each article.
4. The weight or other quantity of each article.
5. From whom, and at what time and place the same was obtained by the person from whom it was bought or received.
6. Date and manner of disposition of each article by the salvage dealer.
7. Name and address of person to whom each article was sold or otherwise disposed.

125.09 EXAMINATION OF PREMISES AND RECORDS. It is unlawful for any salvage dealer or any other person to refuse, resist, or attempt to prevent any City employee or any authorized agent of the City from making a reasonable examination of the area in which junk is stored or deposited or the records required by Section 125.08 of this chapter.

125.10 SEGREGATION OF SPECIFIC ITEMS. Upon order of the Police Chief or designated representative, each salvage dealer shall segregate specific items or categories of items and hold such items until authorized to dispose of the items by the Police Department. The holding period shall be a reasonable time and shall not exceed 45 days.

125.11 CONCEALING ARTICLES TO PREVENT IDENTIFICATION. No salvage dealer shall conceal, secrete, or destroy any article purchased or received by said salvage dealer to prevent identification thereof by law enforcement officers or any person claiming the same.

125.12 DISPOSING OF STOLEN GOODS OR GOODS FOR WHICH THERE IS ADVERSE CLAIM. No salvage dealer shall sell, melt, break up or otherwise dispose of any article which said dealer has reason to believe has been stolen or which is adversely claimed by any person or which the dealer has been notified not to sell or otherwise dispose of by any law enforcement officer without first obtaining a permit in writing from the Police Department.

125.13 CLERKS, AGENTS AND EMPLOYEES. Every clerk, agent, or employee of any salvage dealer is subject to and bound by all the provisions of this chapter and liable to the same penalties and to the same extent as such person's employer or principal for any violation thereof.

125.14 ENCLOSURE REQUIRED. A salvage yard or junk yard shall have a front yard to be maintained as an open space free from weeds and debris, and the salvage yard or junk yard shall be enclosed on all sides with a solid opaque fence, of uniform design and uniform color and not less than eight feet high, which substantially screens the area in which the junk or material is stored or deposited. The fence must be kept in good repair and it shall not be used for advertising displays or signs. No junk shall be permitted to be stored or deposited outside of the fence or to be stacked higher than the fence within 30 feet of the fence. In the event the yard abuts either another junk or salvage yard, or a solid opaque fence or structure not less than eight feet high, then the fencing requirements of this section shall not apply to such common boundary. Suitable gates, likewise opaque, are required, which shall be closed and locked after business hours, or when the yard is unattended; provided, however, a portion of any gate, not to exceed 10 feet in length, may be constructed of a non-opaque material to permit observation of the fenced premises after business hours.

125.15 CONDITIONS SUBJECT TO ABATEMENT. If any salvage yard or junk yard is kept or operated in a way detrimental to the health and welfare of the public to the extent that a public or private nuisance exists, or is kept or operated contrary to the provisions of this chapter, or if any salvage dealer fails to comply with the licensing provisions of this chapter, the City shall notify in writing the owner of the land upon which such salvage yard or junk yard is kept or operated and, where applicable, the operator thereof, of the detrimental or violative conditions, permitting a reasonable time, not less than 10 days to correct said conditions or violations. In the event of the failure of the owner or operator to correct such conditions or to comply with the provisions of this chapter within such time, the City may seek abatement of the nuisance or bring an action enjoining the violations. The abatement of a nuisance shall be considered of benefit to the owner of the land, and the costs of such corrective action shall be chargeable to the owner and, if not paid, shall constitute a lien upon the premises and shall be assessed in the manner of a special assessment and collected in the same manner as general taxes as is provided by law.

[The next page is 651]

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 Property Owner's Responsibility for Maintenance

135.11 Failure to Maintain

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 opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Street Cuts. All street cuts shall be made in accordance with the City's street cutting specifications.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Occurrence Limit – \$5,000.00 any one person; \$100,000.00 any one premises; \$1,000,000.00 each occurrence limit.
 - B. Personal and Advertising Injury Limit – \$1,000,000.00 any one person or organization.
 - C. General Aggregate Limits - \$2,000,000.00.
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, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Fee. A permit fee, as established by resolution of the Council, shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of insurance certificate, and payment of any required fees, a permit shall be issued.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform or contract for the performance of 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])

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

[The next page is 657]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

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.
5. "Portland cement" means any type of cement except bituminous cement.
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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

(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. No asphaltic material shall be used in the construction or repair of a sidewalk without prior written approval of the Council.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than six feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.

- C. Driveway areas shall be not less than six 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 inch above the curb for each foot between the curb and the sidewalk.
 9. Slope. All sidewalks shall slope one-quarter inch per foot toward the curb.
 10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner’s contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight 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 FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 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 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.

[The next page is 667]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 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 or to a fair.
(Code of Iowa, Sec. 364.7[3])

CHAPTER 138
STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
93-4	June 3, 1993		
5-00C	June 15, 2003		

o o o o o o o o o o

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 Stuart, 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.

o o o o o o o o o o

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition

140.03 Right of Access Limited
140.04 Access Controls Imposed

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Division Street, from the south corporate limits to the north corporate limits;
2. Front Street, from the west corporate limits to the east corporate limits;

regulating access to and from abutting properties along said streets all in accordance with the plans for such controlled access facilities on file in the office of the Clerk.

[The next page is 701]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Zoning/Building Administrator 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: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) 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 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 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 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 STUART, IOWA." Such notice shall remain posted until the required demolition, removal or repairs 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; MUNICIPAL INFRACTION. 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

[†] **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.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

(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. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

o o o o o o o o o o

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.03 Foundation Requirements

146.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

[The next page is 711]

CHAPTER 147

FIRE ZONE

147.01 Fire Zone Established
147.02 Plans Submitted
147.03 Buildings Prohibited
147.04 Construction Standards

147.05 Reconstruction Prohibited
147.06 Special Permit
147.07 Removal of Buildings
147.08 Storage of Materials Restricted

147.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

All that area bounded by Main and Gaines Streets and Front and North Third Streets

147.02 PLANS SUBMITTED. It is unlawful to build, enlarge, or alter any structure, building, or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

147.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

147.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III fire resistant construction, as specified in the *International Building Code*.

147.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

147.06 SPECIAL PERMIT. The Council may, by four-fifths vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six months from the date of such permission.

147.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the City Administrator to remove or tear down the same, and if such removal or taking down is not completed within 30 days from the time of the service of such notice, the City Administrator shall cause the same to be removed or taken down and the expense therefor shall be charged to the person owning such building. The City Administrator shall present the bill to the owner of the property and if the bill is not paid within 10 days from the date it is presented, the amount of the bill shall be certified to the County Treasurer, as a lien against the property and collected the same as other taxes.

147.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the City Administrator, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

[The next page is 721]

CHAPTER 148

BUILDING CODE

148.01 Title
148.02 Administrative Provisions

148.03 Adoption of Building Code

148.01 TITLE. This chapter shall be known as the Stuart, Iowa, Building Code, may be cited as such, and will be referred to herein as the “Building Code.”

148.02 ADMINISTRATIVE PROVISIONS. Administration of this chapter shall be as provided in this section and in the following sections of the several codes named, which are hereby adopted by reference, to provide procedures for local enforcement of the codes constituting the Stuart, Iowa, Building Code. The Building Official shall be appointed by the Mayor, subject to approval of the City Council, for the enforcement of the Building, Electrical, Plumbing, Mechanical, Fire, Housing, Existing Buildings, and Property Maintenance, and such other ordinances as shall be assigned to said official, and shall perform such other duties as may be required by the Mayor/City Council. The Building Official shall be accountable for the issuance of all applicable permits under this chapter and shall have the power to render interpretations of this Code and to adopt and enforce rules and regulations supplemental to this Code, subject to approval of the Council, as said official may deem necessary in order to clarify the application of the provisions of this Code. Such rules, regulations, and interpretations shall be in conformity with the intent and purpose of this chapter.

148.03 ADOPTION OF BUILDING CODES. Pursuant to published notice and public hearing, as required by law, the following Codes are hereby adopted as, and constitute, the Building Code of the City, to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures within the City, and (except for such portions as may be hereinafter deleted, modified, or amended) the same are by this reference incorporated herein as fully and completely as if set forth in full herein.

1. The *International Building Code*, 2015 Edition, as Published by the International Code Council.
 - A. Section 101.1. Title. “Stuart.”
 - B. Section 101.4.1. Electrical. Delete “ICC Electrical Code” and insert “*National Electrical Code*, 2014 Edition, as published by the National Fire Protection Association.”
 - C. Section 104.11. Alternative methods. After paragraph insert “the Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2 Manufactured Home Construction is hereby adopted for installation of mobile (manufactured) homes.”
 - D. Section 108.2. Fees. After “in accordance with the” insert “attached schedule as established by Stuart.”
 - E. Section 108.3. Valuations. At the end of last sentence delete period and insert “using the latest Building Valuation Data Sheet.”

- F. Section 1612.3. “Stuart.”
2. The *International Mechanical Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. “Stuart.”
 - B. Sec. 106.6.2. Fee Schedule. “Stuart Building Permit Fee Schedule”.
 - C. Sec. 108.4. Penalties. \$500.00 (offense amount) and 30 (number of days).
 - D. Sec. 108.5. Stop work. \$100.00 (amount)
 - E. Delete Appendix B.
 3. The *International Plumbing Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Sec. 101.1. Title. “Stuart”.
 - B. Sec. 106.6.2. Fee schedule. “Stuart Building Permit Fee Schedule”.
 - C. Sec. 108.4. Penalties. \$500.00 (offense amount) and 30 (number of days).
 - D. Sec. 108.5. Stop work. \$100.00 (amount).
 - E. Sec. 305.6.1. Insert “42 inches” in 2 places.
 - F. Sec. 904.1. Insert “12 inches.”
 - G. Delete Appendix A.
 4. State of Iowa § 661 Iowa Administrative Code Chapter 504, including *The National Electrical Code* and Appendix Chapters, 2014 Edition, as published by the National Fire Protection Association with amendments as referenced by the State Fire Marshal.
 - A. Permit fees for electrical work shall be according to the attached City of Stuart, Iowa, electrical fee schedule.
 5. The *International Fire Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Section 101.1. Title. “Stuart”.
 - B. Section 109.3. Penalties. \$500.00 (offense amount), and 30 (number of days).
 - C. Section 111.4. Stop work. \$100.00 (amount).
 6. The *International Property Maintenance Code*, 2015 Edition, as published by the International Code Council.
 - A. Section 101.1. Title. “Stuart”.
 - B. Section 303.14. Screens. “April 15” and “September 15”.
 7. The *International Residential Code for One- and Two-Family Dwellings* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Section R101.1. Title. “Stuart”.

B. Section R104.11. Alternative methods. After paragraph insert “The Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2, Manufactured Home Construction is hereby adopted for installation of manufactured (mobile) homes.”

C. Section R108.2. Permit fees. After “in accordance with the attached schedule as established by Stuart for the regular Building Permit Fee Schedule.”

D. Delete Appendix F

E. Delete Appendix L

F. Delete Appendix P

G. Section R105.5 – 12-Month Expiration. Every permit issued under the provisions of this Code shall expire 12 months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Building Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. No permit shall be renewed more than once.

H. Table R301.2(1) Climatic and Geographic Design Criteria. Table R301.2(1), Climatic and Geographic Design Criteria is hereby amended by modifying said table as follows:

**TABLE R301.2(1)
Climatic and Geographic Design Criteria**

Ground Snow Load	Wind Speed MPH	Seismic Design Category	Subject to Damage From:				Winter Design Temp.	Ice Barrier Required	Flood Hazards	Air Freezing Index	Mean Annual Temp.
			Weathering	Frost Line Depth	Termite	Decay			NFIP Adoption		
30 PSF	90	A	Severe	42"	Moderate-Heavy	Slight-Moderate	-5° F	Yes	1982	1833	48.6° F

I. Replace Table R403.1 with the following:

**TABLE R403.1
FOUNDATIONS FOR STUD BEARING WALLS**

Number of Stories	Thickness of Foundation Walls	Minimum Width of Footing	Thickness of Footing	Minimum Depth of Foundation Below Natural Surface of Ground and Finish Grade
1	8 inches	16 inches	8 inches	42 inches
2	8 inches	16 inches	8 inches	42 inches
3	10 inches	18 inches	12 inches	42 inches

8. The *International Energy Conservation Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Section 101.1. Title. “Stuart”.
9. The *International Fuel Gas Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Section 101.1. Title. “Stuart”.
 - B. Section 105.5.2. Fee Schedule. Insert “Stuart fee schedule as attached for the Mechanical and Plumbing permit fees.”
 - C. Section 108.4. Penalties. \$500.00 (offense amount), and 30 (number of days).
 - D. Section 108.5. Stop work. \$100.00 (amount in two places).
10. The *International Existing Building Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
 - A. Section 101.1. Title. “Stuart”.
 - B. Section 108.2. Permit fees. Delete after “established” and insert “for the various disciplines herein adopted.”
11. The *International Zoning Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.
12. The *International Swimming Pool Code* and Appendix Chapters, 2015 Edition, as published by the International Code Council.

[The next page is 751]

CHAPTER 149

STORM WATER CONTROL

149.01 Purpose

149.02 Applicability

149.03 Definitions

149.04 Design Criteria

149.05 Construction

149.06 Maintenance

149.07 Easements

149.08 Procedure

149.01 PURPOSE. The purpose of this chapter is to establish procedures to control the flow of storm water from developing areas so as to maintain the rate of the flow in natural or manmade channels equal to the rate of flow from those areas in their undeveloped state, so as to provide for the safety, health and well-being of those living within the developing area as well as those downstream who will be affected by its development.

149.02 APPLICABILITY. The provisions of this chapter are applicable to:

1. All new residential, commercial, and industrial developments in excess of four acres.
2. Any new development, less than four acres, where the percentage of the impervious area of the lot is 50 percent or greater.
3. Any new development, less than four acres, which, in the opinion of the City Engineer, lacks an adequate outlet for the passage of storm waters.

149.03 DEFINITIONS. When used in this chapter, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section.

1. “By-pass channel” means a channel formed in the topography of the earth’s surface to carry storm water runoff through a specific area.
2. “Control structure” means a structure designed to control the flow of storm water runoff that passes through it during a specific length of time.
3. “Development” means the improvement of the land from its natural state to one providing for residential, industrial, or commercial use.
4. “Dry bottom storm water storage area” means a facility designed to be normally dry and contain water only when excess storm water runoff occurs.
5. “Excess storm water” means that portion of storm water runoff which exceeds the transportation capacity of storm sewers or natural drainage channels serving a specific watershed.
6. “Natural drainage” means channels formed by the existing surface topography prior to changes made by unnatural causes.
7. “Safe storm drainage capacity” means the flow of storm water runoff that can be transported by a channel or conduit without causing a rise of the water surface over the conduit or adjacent to the channel.
8. “Storm water runoff” means the flow of water resulting from precipitation which is not absorbed by the soil or plant material.

9. “Storm water runoff release rate” means the rate at which storm water runoff is released from dominant to subservient land.
10. “Storm water storage areas” means areas designed to store excess storm water.
11. “Tributary watershed” means all of the area that contributes storm water runoff to a given point.
12. “Wet bottom storm water storage area” means a facility designed to be maintained as a pond or free water surface and which has the capacity to contain excess storm water runoff.
13. “X-year storm” means the average recurrence intervals within which a rainfall of given intensity and duration will be equaled or exceeded only once. A 100-year storm would have an intensity of rainfall which would, on the average, be equaled or exceeded only once in 100 years. This does not imply that it will occur in 100 years, or having occurred, will not happen again for 100 years.

149.04 DESIGN CRITERIA. The design of storm water control and/or detention facilities shall be prepared in accordance with the following:

1. Runoff Calculation:

A. The Rational Formula may be used to compute the volumes of water to be stored and/or released for drainage basins of 10 acres or less. The basic formula is:

$$Q = ciA$$

where:

“Q” is the computed rate of runoff in cubic feet per second at a specified point;

“c” is the selected ratio of runoff to rainfall depicting the percentage of rainfall expected to appear as runoff at the designated point in a specified time interval;

“i” is the average intensity of rainfall, in inches per hour, for a storm of a selected frequency extending over the time period required for the runoff to concentrate at a given point; and

“A” is the area tributary to a given point, expressed in acres.

(1) Runoff Coefficient. In designing sewers and detention facilities, the factor “c” in actual conditions varies from 0.1 to 1.5, depending on the degree of imperviousness (urbanization) of the basin, soils, foliage, etc. Factors greater than unity represent conditions where rain occurs on frozen ground covered by snow.

(2) Average Rainfall Intensity. The average factor “i” varies for storms of different frequencies.

B. For drainage areas greater than 10 acres, *Urban Hydrology for Small Watersheds*, Technical Release No. 55, Engineering Division, Soil Conservation Service, U.S. Department of Agriculture (January 1975) shall be used in calculating storm water runoff and detention.

2. Release Rate. The release rate of storm water from any detention basin required under this chapter shall not exceed the storm water runoff rate from the drainage area in its natural state or from a five-year frequency storm with a duration equal to the time of concentration of the drainage area having a runoff coefficient “c” of 0.15, whichever is the smaller amount. Applicants may claim a higher natural rate of runoff if documented by detailed computations to show that higher capacity exists in the natural outlets serving the area. However, only the “safe storm drainage capacity” of the conduit or channel may be included in these calculations. Design of the floodway system shall also take into consideration control of storm water velocity to prevent erosion or other damage to the facility which will restrict its primary use. Depths of flow shall be consistent with the “safe storm drainage capacity” of the facility and detention or channel configurations shall be totally under City control.

3. Detention Requirements. The required volume of storm water detention shall be that necessary to handle the runoff of a 100-year rainfall, for any and all durations from the drainage area tributary to the storm water storage area based on full development of said tributary area, less the volume discharge during the same duration at the approved release rate. The storm water release rate shall be considered when calculating the storm water storage capacity and the control structure shall be designed to maintain a relatively uniform rate regardless of the depth of storm water in the storm area. Thus, the “required detention storage” (RDS) will be that found to be the most critical resulting from the inflow from the runoff of a fully developed tributary area from a 100-year storm and outflow of the five-year storm with the same area in its unurbanized or natural state. Also, see subsection 2 of this section, Release Rate. Detention storage may be provided as a “dry bottom” or “wet bottom” storm area.

A. Dry bottom storm water storage areas shall be designed to serve a secondary purpose for recreation, open space, or other types of uses that will not be adversely affected by intermittent flooding.

(1) A method of carrying the low flow through these areas shall be provided in addition to a system of drains to prevent soggy areas. Both shall be provided with an outlet to a natural channel or storm sewer with adequate capacity as described in subsection 4 of this section, By-Pass Channel. Dry bottom storm water storage areas should be designed to drain completely within 24 hours after a storm.

(2) Outlet control structures shall be designed as simply as possible and shall require little or no attention for proper operation. Each storm water storage area shall be provided with a method of emergency overflow in the event that a storm in excess of the 100-year frequency storm occurs. This emergency overflow facility shall be designed to function without attention and shall become part of the “natural” or surface channel system described in subsection 4 of this section. Hydraulic calculations shall be submitted to substantiate all design features.

(3) Both outlet control structures and emergency overflow facilities shall be designed and constructed to fully protect the public health, safety and welfare. Existing downstream hazards (garages, houses) must be considered. Storm water runoff velocities shall be kept at a minimum and turbulent conditions at an outlet control

structure will not be permitted without complete protection for the public safety. The use of fences shall be kept to a minimum and used only as a last resort when no other method is feasible. All impounding structures within the City designed to be over six feet in height must be approved by the Council. Complete engineering plans must be submitted to the Council for review.

(4) Paved surfaces that are to serve as storm water storage areas and rooftop storage shall be designed with permanent-type control inlets and retaining or parapet walls to contain runoff on the surface. Emergency overflow areas shall be provided.

B. Wet bottom storm water storage areas shall be designed with all of the items required for dry bottom storm water storage areas, except that the provisions of subsection A(1) of this subsection shall not be required. However, the following additional conditions shall be complied with:

(1) Water surface area shall not exceed one-fifteenth of the tributary drainage area.

(2) Facilities shall be provided to lower the pond elevation by gravity flow for cleaning purposes and shoreline maintenance. Shoreline protection shall be provided to prevent erosion from wave action.

(3) Minimum normal water depth shall be four feet. If fish are to be maintained, some portion of the pond area should be a minimum of nine feet deep.

(4) Control structures for storm water release shall be designed to operate at full capacity with only a minor increase in water surface level. Hydraulic calculations shall be submitted to the City Engineer to substantiate all design features.

(5) Only that portion of the detention area above the normal water level shall be used in calculating the storage capacity. Wet bottom storm water storage areas shall be designed to provide a storage duration not exceeding 24 hours after a storm.

4. By-Pass Channel. A “natural” or surface channel system shall be designed with adequate capacity to convey through the development the storm water runoff from all tributary upstream areas. This “by-pass” channel shall be designed to carry the peak rate of runoff from a 100-year storm, assuming all storm sewers are blocked and the upstream areas fully developed. The by-pass flow rate shall be computed utilizing a runoff coefficient of not less than 0.35. No habitable structure shall be constructed within this floodway; however, streets and parking, parks, playground or open space areas, and utility easements shall be considered compatible primary uses. In the event that the area within a “by-pass” channel is reshaped or restricted for use as a floodway, the City will cause the restrictions to be removed at the expense of the parties causing said restrictions. Should the development contain an existing “natural” waterway, this land configuration shall be preserved or improved as part of the “by-pass” channel system.

149.05 CONSTRUCTION.

1. Where development of a property presents the threat of flooding or damage by flash runoff to downstream residents, the facilities for storm water runoff control shall be construed as a part of the first phase of construction of that project.
2. The construction of the storm water control system shall be accomplished as part of the cost of land development. If the amount of storage capacity can be increased to provide benefit to the City, negotiations for public participation in the cost of development shall be initiated.
3. All flood control items such as earthen embankments, conduits, outlet structures, flood control structures, spillways, by-pass channels, etc., shall be built as permanent facilities and all materials and their manner of construction shall be assembled to accomplish as much permanency as is possible.

149.06 MAINTENANCE. All plans submitted for storm water detention systems shall describe an adequate procedure of normal maintenance for the detention system. Any failure of the storm water detention system, due to inadequate normal or capital maintenance, shall be the responsibility of the owner of the property on which the detention system is located. It shall also be the property owner's responsibility to remedy any negligence in maintenance that resulted in the failure of the system. The submittal of plans for such a system or the purchase of property on which such system is located shall be deemed as acceptance of responsibility for normal and capital maintenance of the system.

149.07 EASEMENTS. Drainage easements shall be provided for all conduits and those by-pass channels where the 100-year runoff exceeds one cubic foot per second.

149.08 PROCEDURE.

1. Plans, specifications and all calculations for storm water runoff control shall be submitted for review and approval prior to the approval of a final plat (in the case of a subdivision or planned unit development) or prior to approval of a site plan (in case of commercial or industrial construction).
2. No certification of occupancy for any building in the development will be issued until the storm detention facilities are constructed, inspected and approved.

[The next page is 761]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Police Chief.

(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 three and one-half inches in height and of a contrasting color with their background.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Police Chief.

o o o o o o o o o o

CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line 10 feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight 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 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 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])

[The next page is 801]

CHAPTER 165

ZONING REGULATIONS DEFINITIONS AND GENERAL PROVISIONS

165.01 Short Title
165.02 Purpose
165.03 Definitions
165.04 Application of District Regulations

165.05 Official Zoning Map
165.06 Rules for Interpretation of District Boundaries
165.07 Residential Dwelling Standards
165.08 Sidewalks

165.01 SHORT TITLE. This chapter shall be known and may be cited as the “City of Stuart, Iowa, Zoning Ordinance.”

165.02 PURPOSE. The purpose of the Zoning Ordinance is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, and general welfare of the City.

165.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are defined as set forth in this section. The words “used or occupied” include the words “intended, designed, or arranged to be used or occupied,” and the word “lot” includes the words “plot or parcel.”

1. “Abutting” means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street.
3. “Accessory building” means a subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. “Accessory use” means a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall accessory use dominate, in extent or purpose, the principal lawful use or building.
5. “Agriculture” means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops, grains, and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, vegetables, or lands devoted to a soil conservation or forestry management program.
6. “Alley” means a public way, other than a street, 20 feet or less in width, affording secondary means of access to abutting property.
7. “Basement” means a story having part but not more than one-half its height below grade. A basement is counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five feet.

8. “Bed and breakfast house” means a house or portion thereof where short-term lodging, rooms and meals are provided. The operator shall live on the premises.
9. “Board” means the Board of Adjustment.
10. “Boardinghouse” means a building other than a hotel where, for compensation, meals and lodging are provided for four or more persons.
11. “Building” means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards and not including structures or vehicles originally designed for transportation purposes.
12. “Building, height of” means the vertical distance from the average natural grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.
13. “Condominium” means a building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all of the owners on a proportional undivided basis.
14. “District” means a section or sections of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
15. “Dwelling/dwelling unit” means any building or portion thereof which is designed for use exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.
16. “Dwelling, multiple” means a building or portion thereof designed for or occupied exclusively for residence purposes by two or more families.
17. “Dwelling, single-family” means a building designed for or occupied exclusively for residence purposes by one family.
18. “Dwelling, two-family” means a building designed for or occupied exclusively for residence purposes by two families.
19. “Family” means one or more persons related by blood, marriage or adoption occupying a single dwelling unit. A family may include four, but not more than four, persons not related by blood, marriage or adoption, except by special exception of the Board of Adjustment; however, domestic employees employed on the premises may be housed on the premises without being counted as a family or families.
20. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the *Code of Iowa*, or as a child foster care facility under Chapter 237 of the *Code of Iowa*, to provide room and board, personal care, habilitation services and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.
21. “Frost-free foundation” means a foundation supporting a structure and which is required to be at least 42 inches below grade.

22. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.
23. “Garage, private” means building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
24. “Garage, public or storage” means a building or part thereof other than a private garage, for the storage of motor vehicles and in which service station activities may be carried on.
25. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
26. “Health care facility” means any residential care facility, intermediate care facility, or skilled nursing facility.
- A. “Residential care facility” is any institution, place, building or agency providing, for a period exceeding twenty-four consecutive hours, accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse on an emergency basis.
- B. “Intermediate care facility” is any institution, place, building or agency providing, for a period exceeding twenty-four consecutive hours, accommodation, board, and nursing services, the need for which certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree or consanguinity, who by reason of illness, disease or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.
- C. “Skilled nursing facility” is any institution, place, building, or agency providing, for a period exceeding 24 consecutive hours, accommodation, board, and nursing services, the need for which is certified by a physician, to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour basis.
27. “Home occupation” means an occupation conducted in a dwelling unit, provided that:
- A. No person other than members of the family residing on the premises shall be engaged in such occupation, except by special exception by the Board of Adjustment, which may allow one person other than family members not residing on the premises to be employed.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants,

and not more than 30 percent of the main floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, nor shall there be any outdoor storage associated with the home occupation or other visible evidence of the conduct of such home occupation other than one sign, not exceeding three square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

D. No home occupation shall be conducted in any accessory building, except by special exception of the Board of Adjustment.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard. Further, no off-street parking resulting from the home occupation shall interfere with the off-street parking of surrounding properties.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

G. Automotive repair and vehicle maintenance shall only be allowed by special exception of the Board of Adjustment.

H. All home occupations shall have been registered in the office of the Clerk within one year of adoption of the Zoning Ordinance or shall be subject to all terms and conditions of this chapter. Said registration shall be on a form provided by the office of the Clerk.

28. "Hospital" means an institution which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury or deformity, or a place which is devoted primarily to the rendering, over a period exceeding 24 hours, of obstetrical or other medical or nursing care, for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care, over a period exceeding 24 hours, of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care, and includes sanitariums or other related institutions. However, this does not apply to hotels or other similar places that furnish only food and lodging or either to their guests. "Hospital" includes, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.

29. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms with no provision for cooking in any individual room or suites of rooms, and entrance is through a common lobby or office.

30. “Junkyard” means any area not fully enclosed in a building, including a salvage yard, which is used in whole or in part for the storage or deposit of junk, waste, discarded or salvaged materials or where they are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards for storage of salvage, house-wrecking and structural steel materials and equipment encompassing either: (i) an area of 200 square feet or more; or (ii) two or more inoperable motor vehicles, or used parts and materials, thereof, which taken together equal the bulk of two or more motor vehicles.
31. “Kennel (commercial)” means an establishment in which dogs or domestic animals more than one year old are housed, groomed, bred, boarded, trained, or sold.
32. “Lodging house” means a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper’s family. Lodging or meals, or both, are provided for compensation. The term “lodging house” shall be construed to include boardinghouse, rooming house, fraternity house, sorority house, and dormitories.
33. “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:
- A. A single lot of record;
 - B. A portion of a lot of record;
 - C. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record;
 - D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.
34. “Lot frontage” means the front of a lot and the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under the definition for “yard” in this section.
35. “Lot measurements” include the following:
- A. Width of a lot is the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where 80% requirement shall not apply.
 - B. Depth of a lot shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

36. "Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
37. "Lot Types" are shown on Exhibit 1 at the end of this chapter which illustrates terminology used in this chapter with reference to the following:
- A. A "corner" lot is a lot located at the intersection of two or more streets.
 - B. An "interior" lot is a lot other than a corner lot with only one frontage on a street other than an alley.
 - C. A "through" lot is a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two nonintersecting streets may be referred to as "through" lots.
 - D. A "reversed corner" lot is a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.
38. "Manufactured home" means a factory-built structure which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. A mobile home as defined in Section 435.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as provided in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.
39. "Mobile home" means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, and which is, has been or reasonably may be equipped with wheels, or other devices for transporting the structure from place to place, whether by motive power or other means. The term "mobile home" includes camp car and house car.
40. "Modular home" means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.
41. "Motel" (also "motor hotel," "motor court," "motor lodge," or "tourist court") means a building or group of buildings designed to provide sleeping accommodations to transient guests for compensation and provides near each guest room a parking space for the guest's vehicle. A swimming pool, restaurant, meeting rooms, management offices, and other such accessory facilities may be included.
42. "Nonconformities" means lots, structures, uses of land and structures or characteristics of uses which are prohibited under the terms of this chapter but were lawful at the date of the Zoning Ordinance's enactment.
43. "Nursing home" or "convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or

physically disabled persons, not including insane and other mental cases, inebriate or contagious cases.

44. “Parking space” means an area of not less than 180 square feet, either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

45. “Permitted use” means a use by right, which is specifically authorized in a particular zoning district.

46. “Principal use” means the main use of land or structures as distinguished from an accessory use.

47. “Projections” (into yards) means parts of buildings such as architectural features that extend beyond the building’s exterior wall.

48. “Service station” (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils or having pumps and storage tanks therefor, or where battery, tire, or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

49. “Setback” means the required distance between every structure and lot line on the lot which it is located.

50. “Sign” means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures, or symbols are printed or attached and which conveys information or identification.

51. “Sign, off-premises” means an advertising device including the supporting structure which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually sold upon the premises where such a sign is located. Such a sign shall not include on-premises signs, directional, or other official signs which have a significant portion of their face devoted to giving public service information (date, time, temperature, weather, information, etc.).

52. “Sign, on-premises” means an advertising device concerning the sale or lease of the property upon which it is located and an advertising device concerning activities conducted or products sold on the property upon which it is located.

53. “Statement of intent” means a statement preceding regulations for individual districts intended to characterize the districts and their legislative purpose.

54. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling or roof next above it.

55. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story.

56. “Street” means all property dedicated or intended for public or private use for access to abutting land or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle or however otherwise designated.

57. “Street line” means the right-of-way line of a street.

58. “Structural alteration” means any change in the supporting members of a building, such bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

59. “Structure” means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

60. “Townhouse” means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

61. “Use” means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended or for which it is occupied or maintained.

62. “Variance” means a device used by the Board of Adjustment which grants a property owner relief from certain provisions of a Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money and which condition is not of the owner’s own making.

63. “Yard”[†] means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from 30 inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of the rear yard, the least distance between the lot line and the main building shall be used. Fences and walls are permitted in any yard, subject to height limitations as indicated herein.

64. “Yard, front” means a yard extending across the width of the lot between the side yards, and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. Corner lots shall meet the front yard requirements on each street frontage. One yard on a corner lot shall be designated as a primary front yard, that being the yard that includes the front entrance to the house, the other being the secondary front yard. Accessory structures may be erected in the secondary front yard according to the bulk district regulations.

65. “Yard, rear” means a yard extending across the width of the lot between the side yards and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots there shall be no rear yard required.

66. “Yard, side” means a yard extending from the front lot line to the rear lot line and measured between the side lot lines and the building. On corner lots the yards not designated as front yards shall be considered the side yards. Each corner lot shall have two fronts and two side yards.

67. “Zoning/Building Administrator” means the local official responsible for reviewing zoning/building permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the

[†] **EDITOR’S NOTE:** See Exhibit 2 at the end of this chapter for Yard Chart.

Administrator may be appealed to the Board of Adjustment. Permits are issued by the Zoning/Building Administrator.

68. “Zoning District” means a section the City designated in the text of the Zoning Ordinance and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

69. “Zoning Map” means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

165.04 APPLICATION OF DISTRICT REGULATIONS. The regulations set by the Zoning Ordinance within each district are minimum regulations and apply uniformly to each class or kind of structure or land and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

2. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with the Zoning Ordinance shall be included as part of a yard, open space, or off-street parking or loading space similar required for any other building.

3. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established herein.

4. Whenever the requirements of this Zoning Ordinance are at variance with the requirement of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standard shall govern.

5. All structures existing as of the effective date of the Zoning Ordinance and which comply with the terms and conditions hereof, shall be considered lawful and be allowed to continue and exist or be reconstructed as they currently exist.

165.05 OFFICIAL ZONING MAP.

1. Provision for Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk. If, in accordance with the provisions of this chapter and Chapter 414 of the *Code of Iowa*, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Council, with an entry on the Official Zoning Map as follows: By official action of the Council, the following changes were made in the Official Zoning Map. (Indicate the changes by ordinance numbers and date of publication.) No amendment of this chapter which involves matters portrayed on the Official Zoning Map shall become effective until after such change entered and entry made on said map.

2. Annexation of New Land. Any land annexed to the City after the effective date of the Zoning Ordinance shall be zoned AG (Agricultural) until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with this chapter.

3. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

(See EDITOR'S NOTE at the end of Chapter 168 for ordinances amending the zoning map.)

165.06 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following such City limits.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 to 3 of this section shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 of this section, the Board of Adjustment shall interpret the district boundaries.
8. Whenever the Council vacates and disposes of a street or alley, adjacent districts shall extend to the centerline of the vacation.
9. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this chapter, the legal description applies.

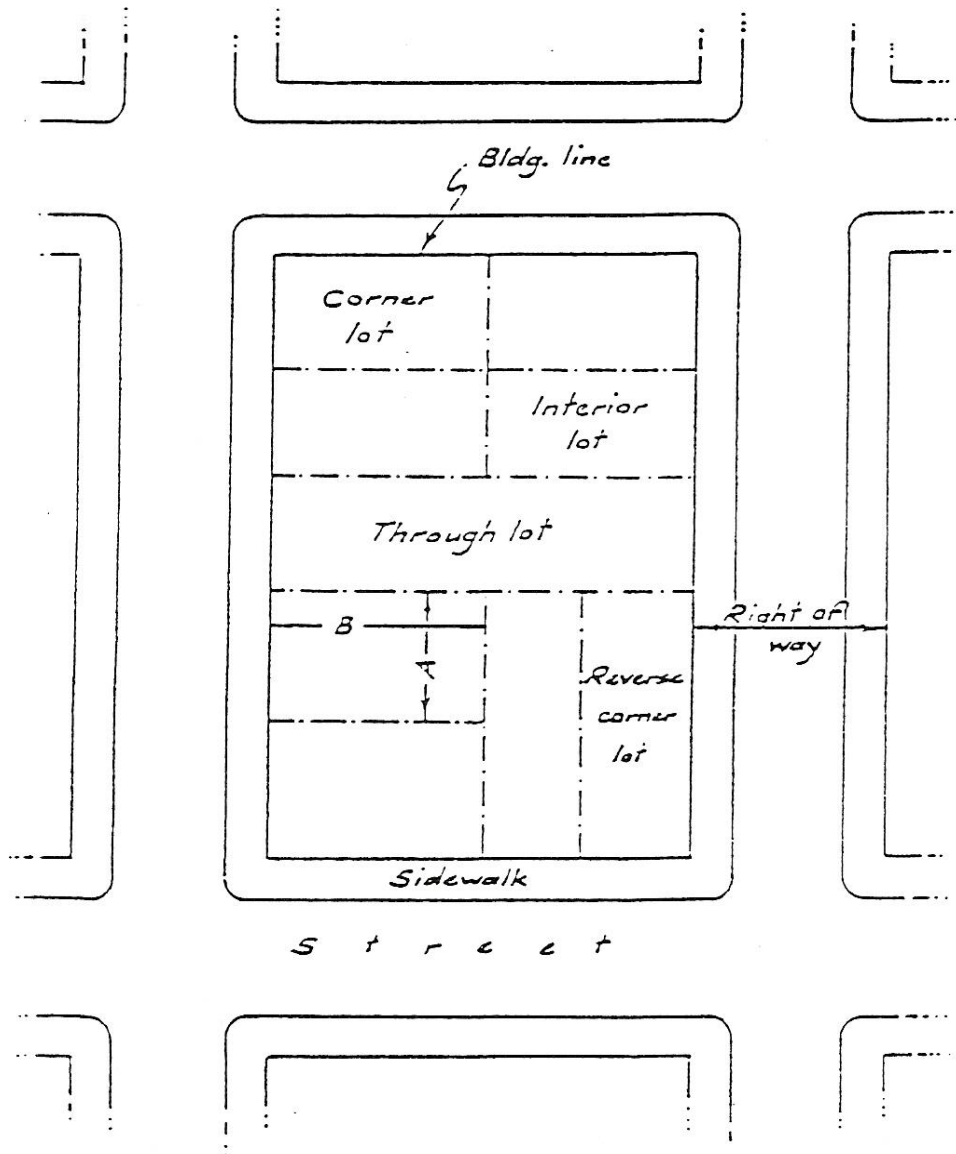
165.07 RESIDENTIAL DWELLING STANDARDS. All single-family dwelling units shall meet the following minimum standards:

1. The minimum dwelling width shall be 20 feet at the exterior dimension.
2. All dwelling units including attached garages shall be placed on a continuous permanent frost-free foundation.
3. All dwelling units shall provide for a minimum of 900 square feet of interior living floor space.
4. All dwellings units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Section 5403.

165.08 SIDEWALKS. Any development requiring a zoning/building permit shall require the construction of sidewalks upon any tract or platted lot within 18 months of issuance of the zoning/building permit unless said tract or platted lot has sidewalks as required in the subdivision regulations of the City. In addition, if said tract or platted lot has sidewalks in compliance with the subdivision regulations and the existing sidewalks are in a state of disrepair which poses an inconvenience or a danger to pedestrians, no zoning/building permit for a principal building shall be issued until an agreement is entered into to reconstruct sidewalks in compliance with this Code of Ordinances within 18 months.

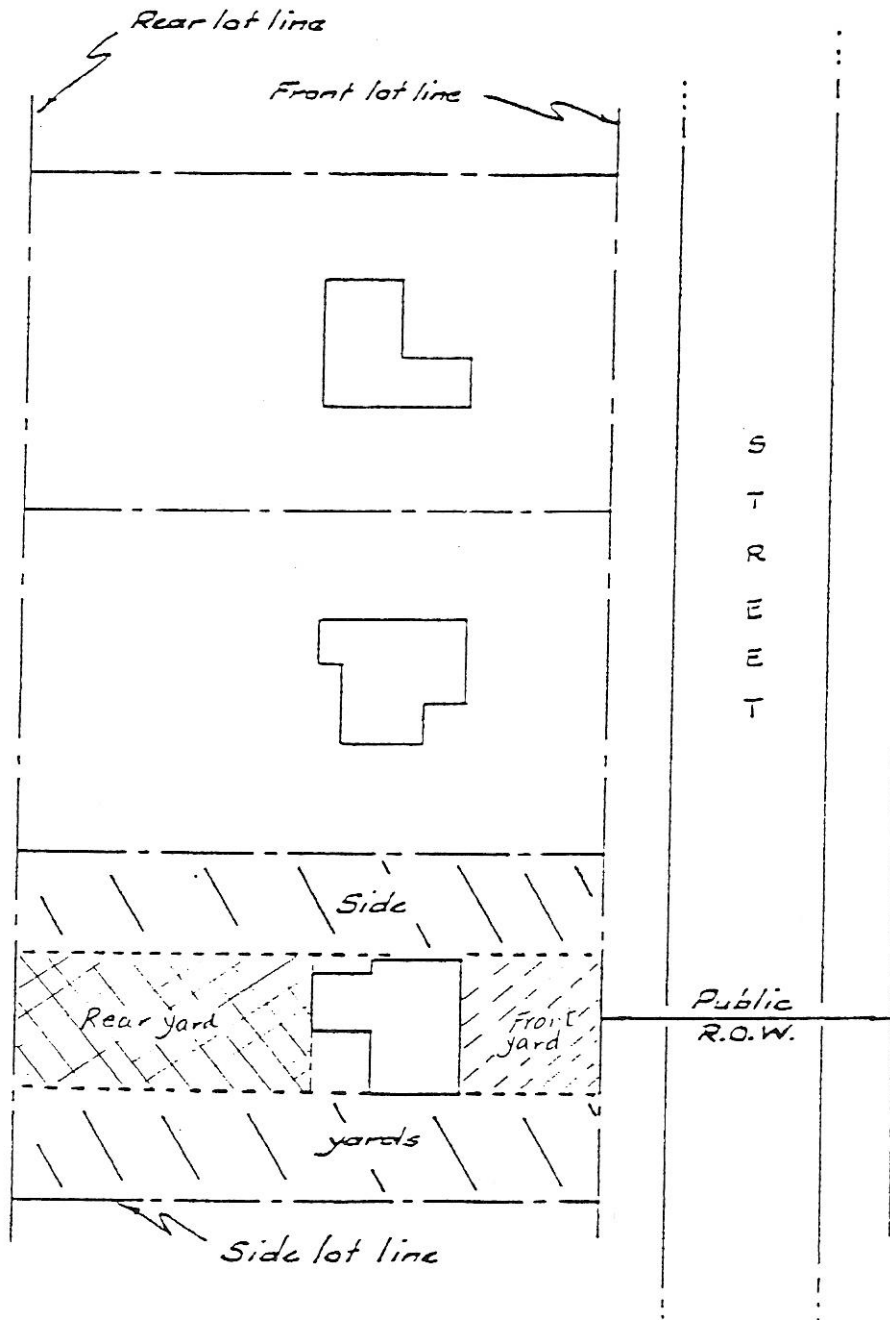
o o o o o o o o o o

EXHIBIT 1 TO ZONING REGULATIONS
LOT TYPES



A—Width of lot
B—Length of lot

EXHIBIT 2 TO ZONING REGULATIONS
YARD CHART



[The next page is 825]

CHAPTER 166

ZONING REGULATIONS

NONCONFORMING USES AND STRUCTURES

- | | |
|---|---|
| 166.01 Nonconformities | 166.05 Nonconforming Uses of Structures or of Structures and Premises in Combination |
| 166.02 Nonconforming Lots of Record | 166.06 Repairs and Maintenance |
| 166.03 Nonconforming Uses of Land (or Land with Minor Structures Only) | 166.07 Uses Under Special Exception Provisions Not Nonconforming Uses |
| 166.04 Nonconforming Structures | |

166.01 NONCONFORMITIES. Within the districts established by this chapter there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the Zoning Ordinance was passed or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendment to the Zoning Ordinance. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district; however, it is the intent of this chapter to allow structures which were nonconforming under the previous Zoning Ordinance, but which are conforming under this chapter to be considered legal as of the date of adoption of the Zoning Ordinance and shall be allowed to be rebuilt, added to, or modified within the terms and requirements of this chapter. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the Zoning Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

166.02 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record provided that the lot is not less than 50 feet in width at the effective date of adoption or amendment of the Zoning Ordinance, except by special exception of the Board of Adjustment, notwithstanding limitations imposed by other provisions of the chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot conforms to the regulations for the district in which such lot is located.

166.03 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of passage of the Zoning Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of 12 months, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land unless erected at least 200 feet from all adjacent lot lines.

166.04 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to any extent, or be unoccupied for 12 consecutive months, it shall be reviewed by the Board of Adjustment and may be allowed by special exception.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

166.05 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of the Zoning Ordinance that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or

by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used, except in conformity with the regulations of the district in which it is located.

6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. "Destruction," for the purpose of this subsection, is defined as damage to an extent of more than 50 percent of the replacement cost at time of destruction. Replacement shall begin within six months of the time of destruction or the nonconforming status shall expire. Said construction shall also be completed within 18 months of the time of destruction or the nonconforming status shall expire.

166.06 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time of passage or amendment of the Zoning Ordinance shall not be increased.

166.07 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NONCONFORMING USES. Any use which is permitted as a special exception in a district under the terms of this chapter (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

[The next page is 839]

CHAPTER 167

ZONING REGULATIONS ADMINISTRATION AND ENFORCEMENT

167.01 Administration and Enforcement
167.02 Zoning/Building Permits Required
167.03 Board of Adjustment; Establishment and Procedure
167.04 Board of Adjustment; Powers and Duties
167.05 Appeals from the Board of Adjustment

167.06 Enforcement and Interpretation
167.07 Amendments
167.08 Penalties for Violation
167.09 Schedule of Fees, Charges, and Expenses
167.10 Complaints Regarding Violations

167.01 ADMINISTRATION AND ENFORCEMENT. A Zoning/Building Administrator designated by the Council shall administer and enforce this chapter. The Administrator may be provided with the assistance of such other persons as the Council may direct.

167.02 ZONING/BUILDING PERMITS REQUIRED. No building or other structure shall be erected, moved, or added to, without a permit therefor issued by the Zoning/Building Administrator. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Fees for permits shall be as provided by City resolution. Zoning/building permits shall be applied for with the City Clerk. Every permit issued under the provisions of this chapter shall expire twelve months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule, with approval of the Building Official. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner of his or her agent and by payment of the renewal fee as established by resolution of the City Council, and provided no changes have been made in plans or location. No permit shall be renewed more than once. The fee for the extension shall be \$75.00 re-inspection fee if the project is at the finish (drywall and trim installed) state and 50 percent of the original building permit fee if the project is at the rough-in stage (drywall and trim not installed).

167.03 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling of real estate.

2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in that person's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon

each question of 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. All actions of the Board concerning a special exception or variance shall also be recorded in the office of the County Recorder. It is the responsibility of the appellant to record said action and all corresponding stipulations; and further, said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning/Building Administrator.

167.04 BOARD OF ADJUSTMENT; POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of this chapter.

A. Appeals 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/Building Administrator. Such appeal shall be taken within 10 days by filing with the Zoning/Building Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.

B. The Board Chairperson shall fix a reasonable time for the hearing of the appeal, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days. At said hearing, any party may appear in person, by agent or by attorney.

C. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal is filed with the Administrator, that by reason of facts stated in the certificate, a stay would, in the Administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning/Building Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions: Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

- B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days.
- C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:
- A. A written application for a variance is submitted demonstrating:
- (1) That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
 - (3) That the special conditions and circumstances do not result from the actions of the applicant;
 - (4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring land, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

- B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than 7 or more than 20 days' public notice in a paper of general circulation in the City, and decide the same within 30 days.
- C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- D. The Board of Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance.
- E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and

intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

The concurring vote of the majority of the Board is necessary to reverse any order, requirement, decision, or determination of the Zoning/Building Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.

167.05 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, board or bureau of the City, or other areas subject to this chapter aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

167.06 ENFORCEMENT AND INTERPRETATION. All questions of interpretation and enforcement shall be first presented to the Zoning/Building Administrator, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning/Building Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

167.07 AMENDMENTS. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than 20 days prior to the hearing. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding Section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of 20 percent or more of the area of the lots included in the proposed change or repeal, or by the owners of 20% or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of three-fourths of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

167.08 PENALTIES FOR VIOLATION. Violation of the provisions of this chapter with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

167.09 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning/Building Administrator, and the City Clerk, and may be altered or amended only by the City Council, as recommended by the Planning and Zoning Commission. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

167.10 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning/Building Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

[The next page is 855]

CHAPTER 168

ZONING REGULATIONS DISTRICT REGULATIONS

168.01 Districts Established	168.07 AC – Arterial Commercial District
168.02 AG – Agricultural District	168.08 BC – Central Business Commercial District
168.03 CN – Conservation District	168.09 DBC – Downtown Business Commercial District
168.04 RS – Residential Single-Family District	168.10 LI – Light Industrial District
168.05 RM – Residential Multi-Family District	168.11 HI – Heavy Industrial District
168.06 MH – Mobile Home District	168.12 Supplementary District Regulations

168.01 DISTRICTS ESTABLISHED. The City is herewith divided into the following districts:

AG	Agricultural District
CN	Conservation District
RS	Residential Single-Family District
RM	Residential Multi-Family District
MH	Mobile Home District
AC	Arterial Commercial District
BC	Central Business Commercial District
DBC	Downtown Business Commercial District
LI	Light Industrial District
HI	Heavy Industrial District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

168.02 AG – AGRICULTURAL DISTRICT.

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur and the fiscal integrity of the City is preserved. All newly annexed areas to the City will automatically be placed into this district classification unless otherwise suitably classified.
2. Permitted Uses. The following uses are permitted in the AG District:
 - A. Agriculture, including the usual agricultural buildings and structures.

- B. Home occupations.
- 3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District:
 - A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
 - B. Private garages, barns and other farm buildings.
 - C. Roadside stands offering for sale only agricultural products or other products produced on the premises.
 - D. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Satellite dishes.
- 4. Special Exceptions. Certain uses may be permitted in the AG District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses:
 - A. Cemeteries, crematories, or mausoleums.
 - B. Commercial kennels.
 - C. Stables, private or public.
 - D. Greenhouses and nurseries.
 - E. Publicly operated sanitary landfills.
 - F. Private recreational camps, golf courses, and recreational facilities.
 - G. Public or private utility substations, relay stations, etc.
 - H. Churches or accessory facilities (on- or off-site).
 - I. Publicly owned and operated buildings and facilities.
- 5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
1 Acre	200 Feet	40 Feet	30 Feet	40 Feet	2½ stories or 35 feet, excluding farm buildings

- 6. Off-Street Parking. The following off-street parking requirements shall apply in the AG District:
 - A. Dwellings: two parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two parking spaces on the lot for each 1,000 square feet of floor area.
 - B. Churches: one parking space on the lot for each five seats in the main auditorium.

- C. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
 - D. Roadside stands: one parking space for each 50 square feet of enclosed floor area.
 - E. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.
7. Off-Street Loading. The following off-street loading requirements shall apply in the AG District:
- A. All activities or uses allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the AG District:
- A. Off-premises signs and on-premises signs are permitted.
 - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
 - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 865]

168.03 CN – CONSERVATION DISTRICT.

1. Intent. This district is intended to prevent, in those areas which are subject to periodic or potential flooding, such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare. This district is also intended to provide for water conservation, erosion control, protection of wildlife habitat, protection of natural erosion control, protection of natural drainage ways and to generally provide for ecologically sound land use of environmentally sensitive areas.
2. Permitted Uses. The following uses are permitted in the CN District:
 - A. Undeveloped and unused land in its natural condition.
 - B. Public parks and recreation open space.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the CN District:
 - A. Agriculture, exclusive of dwelling units.
 - B. Agriculture or recreational buildings or structures whose use or value would not be impaired by being flooded.
 - C. Flood control structures.
 - D. Roadside stands offering for sale only agricultural products or other products produced on the premises.
 - E. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the CN District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Cemeteries, crematories, or mausoleums.
 - B. Stables, private or public.
 - C. Greenhouses and nurseries.
 - D. Private recreational uses.
 - E. Public or private utility substations, relay stations, etc.
 - F. Publicly owned buildings and facilities.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the CN District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
5 acres	200 feet	50 feet	20 feet	50 feet	2 ½ stories or 35 feet, excluding farm buildings

6. Off-Street Parking. The following off-street parking requirements shall apply in the CN District:
 - A. Roadside stands: one parking space for each 50 square feet of enclosed floor area.
 - B. Greenhouses and nurseries: one parking space per 1,000 square feet of enclosed floor area.
7. Off-Street Loading. The following off-street loading requirements shall apply in the CN District:
 - A. All activities or uses allowed in the CN District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to encroach public right-of-way.
8. Signs. The following sign regulations shall apply to the CN District:
 - A. Off-premises signs, except for real estate or political signs are not permitted.
 - B. No sign may be lighted in a manner, which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal, or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
 - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City, or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 873]

168.04 RS – RESIDENTIAL SINGLE-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of single-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Low and medium population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various single-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RS District:
 - A. Single-family detached dwellings.
 - B. Family homes.
 - C. Home occupations.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:
 - A. Private garages.
 - B. Private recreational facilities.
 - C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory Buildings. No accessory building may be erected in any required primary front yard and no separate accessory building may be erected within 10 feet of a main building. No accessory building shall be closer than four feet to the rear or side lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Nursery schools.
 - B. Public or private utility substations, relay stations, etc.
 - C. Churches.
 - D. Publicly owned and operated buildings and facilities.
 - E. Private schools with a curriculum similar to public schools.
 - F. Golf courses but not miniature courses or separate driving tees.
 - G. Bed and breakfast houses.
 - H. Home occupations in accessory buildings.
 - I. Multiple-family dwellings.
 - J. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary shall be considered as accessory buildings. When the

dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS District:

Zoning Symbol	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard *	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
6 RS	6,000 square feet	60 feet	20 feet	6 feet	20 feet	2½ Stories or 35 feet*
10 RS	10,000 square feet	80 feet	30 feet	8 feet	30 feet	2 ½ Stories or 35 feet*
40 RS	40,000 square feet	200 feet	50 feet	20 feet	50 feet	2 ½ Stories or 35 feet*

*Provided that the front yard setback is not closer to the right-of-way than either adjacent property.

Publicly owned and operated buildings and facilities may be allowed exceptions from the bulk regulations.

7. Off-Street Parking. The following off-street parking requirements shall apply in the RS District:

- A. Dwellings: two parking spaces on the lot for each living unit in the building. For dwellings not consisting of living units: two parking spaces on the lot for each 1,000 square feet of floor area.
- B. Churches: one parking space on the lot for each five seats in the main auditorium.
- C. Elementary, junior high and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space for each 300 square feet of gross floor area in the auditorium or gymnasium.
- D. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- E. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- F. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
- G. Nursery schools: one and one-half parking spaces per employee.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RS District:

- A. All activities or uses allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

- B. Loading shall not be permitted to block public right-of-way.
- 9. Signs. The following sign regulations shall apply to the RS District:
 - A. Off-premises signs are not permitted.
 - B. No sign may be lighted in a manner, which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
 - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 883]

168.05 RM – RESIDENTIAL MULTI-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of multi-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety, and welfare. Medium and high population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various multi-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RM District:
 - A. Single-family detached dwellings.
 - B. Multi-family dwellings (as per Bulk Regulations).
 - C. Home occupations.
 - D. Family homes.
 - E. Townhouses.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RM District:
 - A. Private garages.
 - B. Parking lots.
 - C. Private recreational facilities.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory Buildings. No accessory building may be erected in any required primary front yard and no separate accessory building may be erected within 10 feet of a main building. No accessory building shall be closer than four feet to the rear or side lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RM District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Nursery schools.
 - B. Public or private utility substations, relay stations, etc.
 - C. Churches and publicly owned and operated buildings and facilities.
 - D. Private schools with curriculum similar to public schools.
 - E. Lodging houses, dormitories, fraternities and sororities.
 - F. Bed and breakfast houses.
 - G. Health care facilities.

H. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RM District:

Zoning Symbol	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
RM	10,000 square feet	80 feet	30 feet	8 feet	30 feet	45 feet

7. Off-Street Parking. The following off-street parking requirements shall apply in the RM District:

- A. Single-family dwellings: two parking spaces on the lot.
- B. Multi-family dwellings: one parking space on the lot for each dwelling unit.
- C. Churches: one parking space on the lot for each five seats in the main auditorium.
- D. Elementary, junior, and equivalent private or parochial schools: one parking space for each classroom and office plus one parking space per each 300 square feet of gross floor area in auditorium or gymnasium.
- E. Senior high schools and equivalent private or parochial schools: one parking space for each employee and one parking space for each 10 students.
- F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one parking space for each employee and one parking space for each five students.
- G. Public buildings and facilities: one parking space for each 300 square feet of gross floor area.
- H. Nursery schools: one and one-half parking spaces per employee.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RM District:

- A. All activities or uses allowed in the RM District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to encroach public right-of-way.

9. Signs. The following sign regulations shall apply to the RM District:

- A. Off-premises signs are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal, or device.
- E. Signs shall not encroach or extend over public right-of-way.
- F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 893]

168.06 MH – MOBILE HOME DISTRICT.

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.
2. Permitted Uses. The following uses are permitted in the MH District:
 - A. Mobile homes located in an approved mobile home park.
 - B. Home occupations.
3. Accessory Uses.
 - A. Private recreational facilities.
 - B. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
 - C. Private garages or private storage sheds.
4. Special Exceptions.
 - A. Public or private utility substation, relay stations, etc.
 - B. Nursery schools.
 - C. Churches or accessory facilities (on or off site).
 - D. Home occupations in accessory buildings.
 - E. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the MH District:
 - A. No mobile home shall be located within 24 feet of any other, or within five feet of any driveway or parking space.
 - B. A greenbelt perimeter, at least 25 feet in width, shall be located along the inside of all perimeter boundaries of each mobile home park, except where it is crossed by driveways.
 - C. Each mobile home shall be located on a lot having an area of at least 5,500 square feet.
 - D. Each mobile home park shall be graded and drained so that rainwater will not stand in pools or puddles.
 - E. Each street and parking area in any mobile home park shall be bounded by a sidewalk at least three feet wide.

F. All minimum street widths in mobile home parks shall be approved as private streets and further comply with the following:

	One-Way Street	Two-Way Street
No parking on street	14 feet	24 feet
Parallel parking on one side	20 feet	30 feet
Parallel parking both sides	26 feet	36 feet

6. Signs. The following sign regulations shall apply to the MH District:
 - A. Off-premises signs are not permitted.
 - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
 - G. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 901]

168.07 AC – ARTERIAL COMMERCIAL DISTRICT.

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other nonresidential uses which because of certain locational requirements and operational characteristics are appropriately located in close proximity to arterial and other main thoroughfares. Residential type structures are also permitted. The district is further characterized by a typical need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress and access to other adjacent thoroughfares.
2. Permitted Uses.
 - A. Sales and display rooms and lots, including yards for the storage or display of new or used building materials but not for any scrap or salvage operation storage or sales.
 - B. Offices and clinics.
 - C. Churches and publicly owned and operated buildings and facilities.
 - D. Hotels and motels.
 - E. Any other retail or service sales business, including food preparation for sale off-premises.
 - F. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the AC District:
 - A. Private recreational facilities.
 - B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling, provided that such living quarters shall not be on the first floor.
 - C. Private garages.
 - D. Parking lots.
 - E. Temporary buildings for uses incidental to construction work which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the AC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Public or private utility substations, relay stations, etc.
 - B. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	80 feet	30 feet	8 feet	30 feet	50 feet or 4 stories

6. Off-Street Parking. The following off-street parking requirements shall apply in the AC District:

- A. Sales and service buildings: one parking space per 150 square feet of gross floor area.
- B. Office/clinics: one parking space per 300 square feet of gross floor area.
- C. Churches: one parking space on the lot for each five seats in the main auditorium.
- D. Public buildings and facilities: one parking space per 300 square feet of gross floor area.
- E. Hotels and motels: one parking space per room plus one parking space for each employee.

7. Off-Street Loading. The following off-street loading requirements shall apply in the AC District:

- A. All activities or uses allowed in the AC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AC District:

- A. Off-premises and on-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

H. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional, or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 911]

168.08 BC – CENTRAL BUSINESS COMMERCIAL DISTRICT.

1. Intent. This district is intended to accommodate the major business and office concentration in the City. It is characterized further by a variety of stores and related activities which occupy the central commercial area of the City. This district is intended to be the single central business district of the City and no other use of this district shall be utilized other than contiguously with the currently established BC District. Bulk regulations further reflect a more intense use and development pattern.
2. Permitted Uses. The following uses are permitted in the BC District:
 - A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.
 - B. Offices/clinics.
 - C. Hotels and motels.
 - D. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the BC District:
 - A. Outdoor sales and service.
 - B. Private garages.
 - C. Parking lots.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Accessory uses customarily incidental to any permitted principal use.
4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Service stations.
 - B. Churches or accessory facilities (on or off site).
 - C. Dwellings – second floor and above.
 - D. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the BC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
None	None	None	None, except if a side yard is provided it shall be a minimum of 8 feet	None, except if a rear yard is provided, it shall be a minimum of 20 feet	50 feet or 4 stories
Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

6. Off-Street Parking. None required.

7. Off-Street Loading. The following off-street loading requirements shall apply in the BC District:

A. All activities or uses allowed in the BC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the BC District:

A. Off-premises signs are not permitted.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal, or device.

E. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

F. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 919]

168.09 DBC – DOWNTOWN BUSINESS COMMERCIAL DISTRICT.

1. Intent. This district is intended to accommodate the major business and office concentration in the City. It is characterized further by a variety of stores and related activities which occupy the downtown commercial area of the City. This district is intended to be the single downtown business district of the City. Bulk regulations further reflect a more intense use and development pattern.
2. Permitted Uses. The following uses are permitted in the DBC District:
 - A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.
 - B. Offices/clinics.
 - C. Hotels and motels.
 - D. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the DBC District:
 - A. Outdoor sales and service.
 - B. Private garages.
 - C. Parking lots.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Accessory uses customarily incidental to any permitted principal use.
4. Special Exceptions. Certain uses may be permitted in the DBC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Service stations.
 - B. Churches or accessory facilities (on or off site).
 - C. Dwellings – second floor and above.
 - D. Satellite dishes. The placement of satellite dish antennas, either permanent or temporary shall be considered as accessory buildings. When the dish is attached to a main building or other structure, the owner must adhere to the State Building Code. No satellite dish shall exceed a diameter of 12 feet except for commercial use.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the DBC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
None	None	None	None, except if a side yard is provided it shall be a minimum of 8 feet	None, except if a rear yard is provided, it shall be a minimum of 20 feet	50 feet or 4 stories
Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.					

6. Off-Street Parking. None required.

7. Off-Street Loading. The following off-street loading requirements shall apply in the DBC District:

A. All activities or uses allowed in the DBC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the DBC District:

A. Off-premises signs are not permitted.

B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.

C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

D. No sign may imitate or resemble an official traffic control sign, signal, or device.

E. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.

F. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

H. Free-standing signs shall not exceed 25 feet in height.

I. Signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building.

J. Projecting signs must be no greater than 12 square feet and have a maximum width of three feet and maximum height of five feet. No less than eight feet of clearance shall be provided between the sidewalk elevation and the lowest point of the projecting sign. Maximum distance between sign and

building face is one foot. Projecting or wall signs cannot block or obliterate windows or cornices of the building upon which they are placed.

K. No sign shall exceed 150 square feet in area, nor shall any sign cover more than 10 percent of the building face which it covers.

L. No sign or billboard shall be located in, overhang, or project into a required yard.

M. All signs and billboards shall be maintained in a neat and presentable condition and, in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

N. Internally illuminated signs (not including neon) are prohibited except for theater signage. Temporary window signage is limited to one-third of the window surface area. The combination of neon signage, permanently painted signage, and temporary signage should not exceed a total of two-thirds of the window surface area.

O. All business signs shall be removed from the premises within 90 days of the closing of a business.

9. Primary Building Materials.

A. Painting unpainted brick is not allowed without prior approval of Planning and Zoning Commission and Stuart Historic Preservation Commission.

B. The following materials are allowed on the façades of buildings adjacent to public right-of-ways: (i) brick, four inches in height and 12 inches in length or smaller; (ii) fiber cement board siding; (iii) concrete split-faced block masonry units used only for accents.

C. The following material is allowed on the façades of buildings adjacent to public right-of-ways except buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places: exterior insulation and finish system (EFIS) stucco.

D. Buildings that are contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places and which have existing façade material of exterior insulation and finish system (EFIS) stucco can keep, maintain, and have repairs made to the existing EFIS stucco. However, no additional or new areas of the building façade can be covered with EFIS stucco or have the material used on the exterior of the building.

E. The use of other materials not listed above is not allowed without prior approval of Planning and Zoning Commission and Stuart Historic Preservation Commission.

F. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a building material submitted, the applicant may appeal the decision to the City Council for consideration.

10. Front Entry.
 - A. Except when using a door style original to the building, doors must be metal or wood with a full panel design with at least the upper panels in glass or be full glass.
 - B. Doors to apartment entrances for upper story house may be full metal or wood.
11. Cornices.
 - A. Owners are required to preserve, maintain, or repair their original configuration or with materials and details to match the existing.
 - B. Plans to remove, conceal, cover, or replace a cornice shall be reviewed and agreed upon between the owner and the Planning and Zoning Commission and Stuart Historic Preservation Commission.
12. Windows.
 - A. Owners are required to repair or retain original windows. Window replacement shall be considered when existing are not original or are so deteriorated that repair is not feasible. Window replacement shall be considered to replace single pane windows with energy efficient multi-pane windows, provided that windows still meet the appearance, dimensions, trim, and glazing pattern of the original windows.
 - B. Plans for new storefront windows shall be reviewed and agreed upon between the owner and the Planning and Zoning Commission and, for those buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places, by the Stuart Historic Preservation Commission.
 - C. Clear glass shall be installed for display windows. Interior shades or horizontal blinds shall be utilized for shade or privacy. Permanent shades or covers may not be used.
 - D. Creating new window openings or eliminating original window openings on all principal elevations, or on areas of a building that can be viewed easily by the public is not allowed.
 - E. Original window trim shall be preserved and retained. Decorative window lintels and details may be added if approved by the Planning and Zoning Commission and, for those buildings contributing to the Uptown Stuart Historic District as listed on the National Register of Historic Places, also by the Stuart Historic Preservation Commission.
 - F. Upper story replacement windows shall match the original in size and shape. Design, material, and glazing pattern shall be replicated.
 - G. Covering of deteriorating or broken windows/doors with cardboard, plywood, or similar material for more than 30 days is not allowed.
13. Awnings.
 - A. If canvas awnings are used, awnings cannot extend across multiple storefronts and/or multiple buildings. Canvas awnings must be constructed of

durable, protective, and water repellant canvas. Backlighting or illuminating awnings are not allowed.

B. All awnings must be at least three feet away from the plane of any street light.

C. Color and patterns shall be approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a color or pattern submitted, the applicant may appeal the decision to the City Council for consideration.

14. Roofs and Parapets.

A. The roof design or style must be maintained where it is visible from the ground (e.g., a flat roof may not be replaced with a pitched roof).

B. Roofing materials visible from the ground in front of the building cannot include metal except for caps.

C. Adequate gutters and downspouts must be located to carry water off the roof and away from the building.

D. Heating/cooling units, air circulation units, antennas and satellite dishes must be located as near to the rear of the roof as mechanically possible so they cannot be seen from the ground and front of the building. If placement out of view from the ground is not mechanically possible, a movable barrier designed to blend with the rest of the structure shall be built around such mechanical units that would provide adequate air circulation.

E. Parapets shall be capped and sealed.

F. Unless damaged beyond repair, architectural designs on the parapet shall be maintained.

15. Other Architectural Details. Bulkheads, transoms, molding, and other architectural details shall be replaced with like architectural details, even if exact materials cannot be used. Transom windows shall be replaced with windows unless the interior structure has been altered such that windows are not feasible. In all other cases, materials for architectural details shall replicate the appearance of the original.

16. Color. The color of buildings shall complement the adjacent buildings' colors. The color of brick or other natural building materials shall dictate the color family choice. Bricks in the red and brown tones with light and bright colors shall be used only as minor accents. The accent colors shall complement the primary color. Colors used must either be on the color palette approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission or a proposed color must be submitted to and approved by them. If the Planning and Zoning Commission or the Stuart Historic Preservation Commission does not approve a color submitted, the applicant may appeal the decision to the City Council for consideration.

17. Utility Areas and Mechanical Equipment Screening. Where mechanical equipment, utility boxes, or dumpsters are located on the ground visible from the front, a barrier shall be constructed around the structure, to screen such equipment or dumpster. Barriers shall maintain necessary access and adequate air circulation to and around such equipment. Barriers shall also screen tires, scrap metal and debris.

18. Exhaust Fans. Exhaust fans may not exhaust through any wall visible from the front.

19. Street Sales, Furniture and Plants. Any benches or planters kept in front of buildings must be a variety approved by the Planning and Zoning Commission and the Stuart Historic Preservation Commission. Any metal shall not have any rust or chipping paint. Any wood must be finished and weather-resistant. Plants kept in front of buildings must be kept green and live with no unsightly weeds.

[The next page is 931]

168.10 LI – LIGHT INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance, or other similar factors. Outdoor storage is allowed in this district when the material is enclosed within a solid fence at least six feet high and said fence being within required building lines. All industrial operations must be in an enclosed building. No residential uses are permitted in this district.
2. Permitted Uses. The following uses are permitted in the LI District:
 - A. Any nonresidential building or use which would not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants.
 - B. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
 - C. Manufacture, compounding, assembly, and/or treatment of articles or merchandise derived from previously prepared materials.
 - D. Assembly of appliances and equipment, including manufacture of small parts.
 - E. Wholesale distribution of all standard types of prepared or packaged merchandise.
 - F. Sale and storage of building materials. Outdoor or open storage shall be allowed only when the material is enclosed within a solid fence at least six feet high and said fence being within required building lines.
 - G. Contractors' offices and storage of equipment.
 - H. Public or private utility substations, relay stations, etc.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the LI District.
 - A. Accessory buildings and uses customarily incidental to a permitted use.
 - B. Living quarters for watchmen or custodians of industrial properties.
4. Special Exceptions. Certain uses may be permitted in the LI District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the LI District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	80 feet	30 feet	8 feet, except that if adjacent to an "RS" or "RM" district, then it shall be 20 feet	30 feet	4 stories or 50 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the LI District:

- A. All commercial uses shall provide one parking space on the lot for each 300 square feet of floor area.
- B. All industrial uses shall provide one parking space on the lot for each two employees of maximum number employed at any one time.

7. Off-Street Loading. The following off-street loading requirements shall apply in the LI District:

- A. All activities or uses allowed in the LI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to encroach upon public right-of-way.

8. Signs. The following sign regulations shall apply to the LI District:

- A. Off-premises signs are not permitted.
- B. On-premises signs are permitted.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal, or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- H. No advertisement or advertising structure shall be posted, erected, or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 941]

168.11 HI – HEAVY INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide areas for activities and uses of a heavy industrial character and is the least restrictive of any district. In the best interest of the City, certain uses in the HI District shall be subject to final City Council approval, conditional approval, or denial to insure that proper safeguards are taken. No residential uses are permitted.

2. Permitted Uses. There may be any use, excluding residential uses and mobile homes. The following uses must be given separate City Council approval before a zoning/building permit is issued.

- A. Acid manufacture.
- B. Cement, lime, gypsum, or plaster of Paris manufacture.
- C. Distillation of bones.
- D. Explosive manufacture or storage.
- E. Fat rendering.
- F. Fertilizer manufacture.
- G. Gas manufacture.
- H. Garbage, offal, or dead animals, reduction or dumping.
- I. Glue manufacture.
- J. Petroleum, or its products, refining of.
- K. Smelting of tin, copper, zinc, aluminum, rubber, or iron ores.
- L. Stockyards or slaughter of animals.
- M. Junk yards. Must be surrounded by a solid fence at least eight feet high located within building lines and the junk piled not higher than the fence.

Before granting such separate approval, the Council shall refer applications to the Commission for study, investigation, and report. If no report is received in 30 days, the Council may assume approval of the application.

3. Determining Provisions for Approval. The Council shall then, after holding a public hearing, consider all of the following provisions in its determination upon the particular use at the location requested:

- A. The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
- B. Such use shall not impair an adequate supply of light and air to surrounding property.
- C. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.
- D. Such use shall not diminish or impair established property values in adjoining or surrounding property.

- E. Such use shall be in accord with the intent, purpose, and spirit of this chapter and the Comprehensive Plan of the City.
- 4. Required Conditions.
 - A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise or similar nuisance shall be employed and subject to all State and federal regulations.
 - B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least 100 feet from any R District boundary, except where adjoining a railroad right-of-way, and 50 feet from any commercial boundary.
- 5. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the HI District.
 - A. Accessory buildings and uses customarily incidental to a permitted use.
 - B. Living quarters for watchmen or custodians of industrial properties.
- 6. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the HI District.

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (lesser of)
10,000 square feet	None	30 feet	8 feet, except that if adjacent to another district, it shall be 50 feet	20 feet, except when adjacent to another district it shall be 100 feet	3 stories or 45 feet

- 7. Off-Street Parking. The following off-street parking requirements shall apply in the HI District.
 - A. All commercial uses shall provide one parking space on the lot for each 300 square feet of floor area.
 - B. All industrial uses shall provide one parking space on the lot for every two employees of maximum number employed at any one time.
- 8. Off-Street Loading. The following off-street loading requirements shall apply in the HI District:
 - A. All activities or uses allowed in the HI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to encroach upon public right-of-way.
- 9. Signs. The following sign regulations shall apply to the HI District:
 - A. Off-premises signs and on-premises signs are permitted.
 - B. Off-premises signs shall comply with the setbacks of the districts they are located in. Off-premises signs are governed by State and federal regulations along highways, where zoning exists.

- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal, or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, City or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 951]

168.12 SUPPLEMENTARY DISTRICT REGULATIONS.

1. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision approved by the Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.
2. **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
3. **Erection of More than One Principal Structure on a Lot.** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
4. **Accessory Buildings and Structures.** No accessory building shall be erected in any required yard other than a side or rear yard, except as provided herein. Accessory buildings shall be a distance of at least five feet from the rear lot lines and alley lines, and at least three feet from the lot line of adjoining lots, and on a corner lot they shall conform to the setback regulations on the side street. Accessory building may be erected as a part of the principal building or may be connected thereto by a breeze-way or similar structure provided all yard requirements for a principal building are complied with. An accessory building that is not a part of the main building shall not occupy more than 30 percent of the rear yard and shall not exceed the lesser of 17 and one-half feet in height, or the height of the principal building; however, this regulation shall not be interpreted to prohibit the construction of a 440 square foot garage on a minimum rear yard. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used. In any residential district, air conditioning compressor-condensers may be located in any side yard and in any rear yard, provided that: (i) in any side yard adjacent to a street, they shall not be placed more than five feet from the principal structure and shall be screened from the street by a solid fence or plantings; and (ii) in any permitted yard other than a side yard adjacent to a street, the compressor-condenser for any unit of five-ton capacity or more shall not be located within 25 feet of any lot line and a compressor-condenser with less than five-ton capacity shall not be located within five feet of any lot line unless screened therefrom by a solid fence or plantings. In any commercial or industrial district, air conditioning compressor-condensers may be located in any yard adjoining a street if screened therefrom by a solid fence or plantings. Air conditioning compressor-condensers may be located in any side yard which does not adjoin a street and any rear yard, unless the adjoining lot is located in a residential district, in which case the residence district regulations shall apply. The bottom edge of required screening in any district shall be no more than six inches above the ground, and the upper edge shall extend not less than one foot above the top of the compressor-condenser.

5. Fences. Any fence, hedge, or wall shall not exceed four feet in height or be more than 75 percent solid in any required front yard and shall not exceed six feet in height on any remaining part of the lot except as permitted by the Zoning Administrator, after submission of a building permit. The construction of a fence, hedge, or wall shall require City approval upon submission of a building permit. Any such fence, hedge, or wall shall be set back no less than two feet from the property line, unless the adjacent property owner agrees in writing to less than the two-foot setback. A rear yard fence, hedge, or wall shall be set back no less than four feet from the property line unless the adjacent property owner agrees in writing to less than the four-foot setback. Any such fence, hedge, or wall shall have equal appearance on both sides unless otherwise agreed to by the adjacent property owners. Consent by the adjacent property owner shall be in writing and shall include a legal description of both properties, a description of the location, construction materials, type of fence to be constructed, reasonable arrangements for maintenance and repair of the fence, a method of termination of the agreement, notarized signatures of all owners, and proper proof of recording with the County Recorder. Property owners submitting an application for a building permit must establish their property line by legal survey. For purposes of this section, underground electric fences shall be considered fences and their intended use, installation, and construction must reasonably protect the public's right to use all streets, sidewalks, or right-of-ways.

6. Height Limits. Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tank, water towers, ornamental towers, spires, wireless tower, grain elevators, or necessary mechanical appurtenances may be exempt from the height regulations contained in this chapter by special exception of the Board of Adjustment.

7. Projections into Required Yards.

A. Sills, belt courses, cornices, and ornamental features may project only two feet into a required yard.

B. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning/Building Administrator.

C. Unenclosed porches 20 square feet and under not extending more than five feet into the required front yard are allowed. A building permit is required, but no fee will be charged. Other unenclosed porches may be allowed to extend into the front yard by special exception of the Board of Adjustment.

D. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distanced at least two feet from the adjacent side lot line.

8. Utility Service Lines. Nothing in this chapter shall have the effect of prohibiting utility service lines.

9. Parking in Front Yards. All vehicular parking spaces located in required front yards shall be a minimum of 10 feet in width and be surfaced with gravel, concrete, or asphalt.

10. Swimming Pools. Private swimming pools shall be allowed only in rear yards and shall not be allowed in front or side yards.

11. Visibility Obstructions. On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of three and 10 feet above the centerline grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said right-of-way lines 25 feet from the point of the intersection, except in the BC District. (See Exhibit 3 at the end of this chapter.)

12.

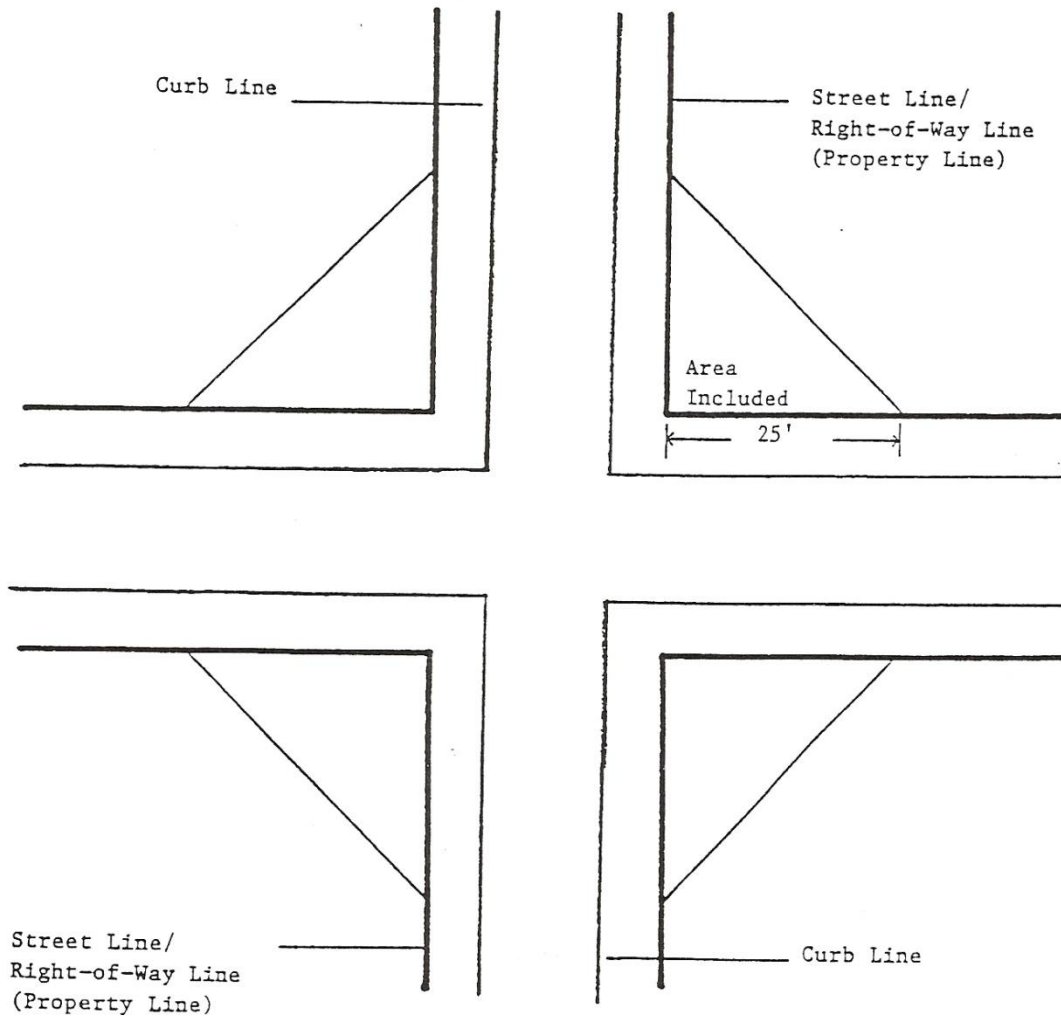
EDITOR’S NOTE

Ordinance No. 3-95C, adopted March 13, 1995, which adopted the Official Zoning Map and the following ordinances which have been adopted amending the Official Zoning Map have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NUMBER	DATE ADOPTED		
2-95C	3-13-95		
2-98C	2-9-98		
7-00C	10-9-2000		
8-00C	10-9-2000		
6-00C	9-11-2001		
5-01C	10-8-2001		
03-10C	8-11-03		
04-04C	8-9-04		
05-03C	5-9-05		
05-05C	10-10-05		
08-01C	2-11-08		
10-04C	7-19-10		
10-06C	7-19-10		
10-07C	7-19-10		
10-08C	8-9-10		
10-10C	9-13-10		
12-08C	10-8-12		
15-02C	5-11-15		

o o o o o o o o o o

EXHIBIT 3 TO ZONING REGULATIONS
CORNERS – YARDS AND VISIBILITY



[The next page is 985]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Purpose	170.11 Professional Assistance
170.02 Jurisdiction	170.12 Preliminary Plat Requirements
170.03 Definitions	170.13 Final Plat Requirements
170.04 Fees	170.14 Streets and Alleys
170.05 Variances	170.15 Block
170.06 Enforcement	170.16 Lots
170.07 Amendments	170.17 Improvements Required
170.08 Preliminary Platting Procedure	170.18 Specifications
170.09 Final Platting Procedure	170.19 Inspection
170.10 Plats Outside Corporate Limits	

170.01 PURPOSE. The purpose of this chapter is to secure coordination of subdivisions of land and extensions of streets; to promote proper standards for development of land, utilities, and streets; to promote public health, safety and general welfare; to facilitate the adequate provisions of transportation, water supply, sewage treatment, storm drainage, parks, and recreation facilities and other public improvements and services in areas of new development through the City, all in accordance with a Comprehensive Plan.

170.02 JURISDICTION. All plats, replats, or subdivision of land into three or more parts for the purpose of laying out a portion of the City, additions thereto, or, pursuant to Section 354.9 of the *Code of Iowa*, suburban lots within one mile of the corporate limits of the City for other than agricultural purposes, shall be submitted to the Council and Planning and Zoning Commission of the City, in accordance with the provisions of this chapter, and shall be subject to the requirements established herein.

170.03 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined.

1. “Alley” means a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.
2. “Auditor” means the County Auditor of Guthrie County or Adair County, Iowa.
3. “Building line” means a line established in a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirement established in the Zoning Ordinance, and where they do not, the most restrictive requirement will control.
4. “Commission” means the Planning and Zoning Commission of the City.
5. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
6. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said person’s property.
7. “Final plat” means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.

8. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.
9. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership.
10. "Street" or "road" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place, or other appropriate designation.
11. "Thoroughfare" means a street intended for cross-country or through traffic.
12. "Collector street" means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.
13. "Residential street or road" means a street used primarily for access to abutting property.
14. "Right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
15. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision or part hereof as defined herein, either for said person or others.
16. "Subdivision" means the division of a separate tract of land or lot of record into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.

170.04 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee of \$5.00 per lot, which shall be credited to the General Fund of the City.

170.05 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

170.06 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. No plat or subdivision in the City or within one mile thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.
2. No more than two building permits shall be issued for each separate tract existing at the effective date of the ordinance codified herein unless the tract shall have been platted in accordance with the provisions contained herein.
3. No Construction Compliance Certificate or Occupancy Compliance Certificate shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of

these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations set forth in this chapter.

4. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of adoption of the ordinance codified in this chapter unless the subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

5. Any person who shall hereafter dispose of or offer for sale or lease any lots in the City or addition thereto unless the plat thereof has been approved in accordance with this chapter and recorded, shall forfeit and pay \$50.00 for each lot sold or disposed of, leased or offered for sale.

170.07 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

170.08 PRELIMINARY PLATTING PROCEDURE.

1. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared, a plat of the subdivision containing the information specified herein, and shall file three copies and a reproducible sepia or tracing of the plat with the Clerk.

2. The Clerk shall immediately transmit two copies of the preliminary plat to the Commission for study and recommendations.

3. The Commission shall examine the plat as to its compliance with this chapter and the Comprehensive Plan of the City and shall have 30 days to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed 60 days. A copy of the recommendation shall be forwarded to the owner or developer.

4. The Council, upon receipt of the Commission's recommendation or after 30 days, or extension thereof, shall have passed, shall by resolution grant approval of or reject the preliminary plat. If the preliminary plat is rejected, the Council will advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

170.09 FINAL PLATTING PROCEDURE.

1. A final plat shall be submitted within 12 months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.

2. Procedures for final plats shall be the same as set out for preliminary plats in Section 170.08.

3. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor, and County Recorder along with such other certifications and instruments as may be required by law.

170.10 PLATS OUTSIDE CORPORATE LIMITS. The procedure for approval of preliminary and final plats of land within one mile of the corporate limits shall be the same as set out in Section 170.08 and 170.09, except that five copies of the plat shall be filed with the Clerk and the Clerk shall in addition refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission, and request their recommendations to be submitted to the City Planning and Zoning Commission. The Commission shall not take action on the plat prior to receiving the recommendations of the County.

170.11 PROFESSIONAL ASSISTANCE. The Council or Commission may request such professional assistance as they deem necessary to properly evaluate the plats as submitted.

170.12 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the following information:

1. A location map showing:
 - A. The subdivision name;
 - B. An outline of the area to be subdivided;
 - C. The existing streets and public or community utilities, if any, on adjoining property; and
 - D. North point and scale.
2. A preliminary plat of the subdivision drawn to the scale of 50 feet to one inch provided that if the resulting drawing would be over 36 inches in the shortest dimension, a scale of 100 feet to one inch may be used, said preliminary plat to show:
 - A. Legal description, acreage and name of proposed subdivision;
 - B. Name and address of owner;
 - C. Name of person who prepared the plat, and the date thereof;
 - D. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision;
 - E. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas;
 - F. Tract boundary lines showing dimensions, bearings, angles and references to known lines or bench marks;
 - G. Names of adjacent property owners;
 - H. Layout of proposed blocks (if used) and lots, including the dimensions of each and the lot and block number in numerical order;
 - I. A statement concerning the location and approximate size and capacity of vertical intervals of not more than two feet if the general slope of the site is less than 10 degrees and at vertical intervals of not more than five feet if the general slope is 10 degrees or greater;

- J. Grades of proposed streets;
- K. Proposed building lines;
- L. A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage and other improvements to be installed;
- M. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used;
- N. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures;
- O. North point and graphic scale; and
- P. Layout of lots showing approximate dimensions and number.

170.13 FINAL PLAT REQUIREMENTS. The final plat shall meet the following specifications:

1. It may include all or only part of the preliminary plat.
2. The plat shall be drawn to the scale of 50 feet to one inch, provided that if the resulting drawing would be over 36 inches in the shortest dimension, a scale of 100 feet to one inch may be used.
3. The final plat shall contain the following:
 - A. Accurate boundary lines with dimensions and angles which provide a survey of the tract closing with an error of not more than one foot in 3,000 feet;
 - B. Accurate references to known or permanent monuments giving the bearing and distance from some corner of a congressional division of the County of which the subdivision is a part;
 - C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;
 - D. Accurate metes and bounds description of the boundary;
 - E. Street names;
 - F. Complete curve notes for all curves included in the plat;
 - G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
 - H. Lot numbers and dimensions;
 - I. Block numbers, if blocks are used;
 - J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use;
 - K. Building lines and dimensions;
 - L. Location, type, material and size of all monuments and markers;
 - M. Name of the subdivision;
 - N. Name and address of owner and subdivider;

- O. North point, scale and date;
 - P. Certification by a registered land surveyor of the State of Iowa;
 - Q. Certification of dedication of streets and other public property; and
 - R. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.
4. The final plat shall be accompanied by the following instruments:
- A. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.
 - B. One of the following:
 - (1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or
 - (2) A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus 10 percent and the amount of the estimate must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same, or
 - (3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.
- If option (2) or option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees, and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.
- C. Copy of all restrictive covenants to be attached to the lots of the subdivision.
5. The final plat shall also be accompanied by the following at the time it is presented for filing:
- A. A complete abstract of title and an opinion from an attorney at law showing that the fee title is in the proprietor and that the land platted is free

from encumbrance, or is free from encumbrance other than that secured by a bond as provided in Section 354.12 of the *Code of Iowa*. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances.

B. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

C. A certified statement from the Clerk of the District Court that the land platted is free from all judgments, attachments, mechanics or other liens as appears by the record in that office.

170.14 STREETS AND ALLEYS. Designs standards for streets and alleys are the following:

1. General Considerations.
 - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - B. Street jogs of less than 150 feet shall be avoided.
 - C. Cul-de-sacs shall not exceed 500 feet in length.
 - D. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
 - E. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.
 - F. No dead-end streets or alleys will be permitted except at subdivision boundaries.
 - G. Thoroughfare and collector streets in a subdivision shall extend through the boundaries thereof.
 - H. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas.
 - I. Intersection of road centerlines shall be between 80 degrees and 100 degrees.
 - J. Intersections of more than two streets at a point shall not be permitted.
 - K. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.
 - L. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.
2. Minimum rights-of-way shall be provided as follows:
 - A. Thoroughfare streets – 100 feet;
 - B. Collector streets – 70 feet;

- C. Residential streets – 60 feet;
 - D. Cul-de-sacs – 110 feet in diameter;
 - E. Alleys – 20 feet.
3. Minimum width of surfacing to be provided shall be as follows:
- A. Thoroughfare streets – 53 feet;
 - B. Collector streets – 41 feet;
 - C. Residential streets – 25 feet;
 - D. Cul-de-sacs – 85 feet in diameter;
 - E. Alleys – 20 feet.
 - F. Sidewalks – 4 feet.
4. No street grade shall be less than one-half of one degree and shall not exceed the following limits:
- A. Thoroughfare streets – 6 degrees;
 - B. Collector streets – 8 degrees;
 - C. Residential streets – 10 degrees.

170.15 BLOCK. Design standards for blocks are the following:

- 1. The length of blocks shall be not less than 500 feet and not more than 1,250 feet in length.
- 2. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth and in no case shall the width be less than 220 feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, drainage course, railroad or other barrier, the width shall not be less than 150 feet.
- 3. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out-of-distance travel. If required, they shall be constructed by the developer.

170.16 LOTS. Design standards for lots are the following:

- 1. All lots shall abut on a street or place. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of 15 feet at the intersection.
- 2. Sidelines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better lot layout.
- 3. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.
- 4. Corner lots shall not be less than 80 feet in width, and interior lots shall not be less than 80 feet in width at the building line.

170.17 IMPROVEMENTS REQUIRED.

1. Sanitary Sewers. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the following.
 - A. Public Collection System. Where reasonably available, the subdivider shall provide the subdivision with a complete sanitary sewer system, which shall connect with the sanitary sewer system of the City. In such case the sewer system shall be approved by the Council and shall be designed and constructed in accordance with the municipal specifications.
 - B. Local or Community Treatment System. Where it is not practical to connect the subdivision sanitary sewer system to municipal sewer, the subdivider shall install a local or community treatment system in accordance with the requirements of the State Board of Health and the County Board of Health.
 - C. Private Disposal System. If it is demonstrated that the above are not practical, the Council may, upon request, permit the subdivider to install on each lot, a septic tank and absorption field or other system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance. In no case, however, shall private disposal systems be permitted where rock, impervious clay, or ground water is closer than 30 inches to the surface of the ground.
2. Water. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of the following:
 - A. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system.
 - B. Local or Community Water System. Where a public water system is not available, the subdivider shall install a local or community water supply and distribution system, including all necessary mains, valves, hydrants and other appurtenances, in accordance with the standards and requirements of the State Board of Health and the County Board of Health.
 - C. Individual Water System. If it is demonstrated that the above are not practical, the Council may, upon request, permit the subdivider to install individual wells on each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Ordinance.
3. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.
4. Sidewalks. The subdivider shall provide a four-foot wide concrete sidewalk along each lot frontage upon completion of the structure thereon.

5. Street Signs. The subdivider shall provide the subdivision with acceptable street signs at the intersections of all streets.
6. Markers. An iron rod not less than one-half inch in diameter and 24 inches in length shall be placed as follows:
 - A. At the intersection of all lines forming angles in the boundary of the subdivision.
 - B. At block and lot corners and changes in direction of block and lot boundaries.
7. Grading. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the Council.
8. Curb and Gutter. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the Council.
9. Surfacing. All streets being dedicated for public use shall be surfaced to the width required by Section 170.14(3). Surfacing shall be Portland cement concrete or asphaltic concrete and shall be constructed in accordance with the design and specifications, and at grades approved by the Council.

170.18 SPECIFICATIONS. The type of construction, the materials, the methods, and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

170.19 INSPECTION. The Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of this chapter. The cost of said inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the City.

CHAPTER 171

SITE PLAN REGULATIONS

171.01 Title	171.07 Procedure
171.02 Purpose and Application	171.08 Fees
171.03 Design Standards	171.09 Validity of Approval
171.04 Required Information	171.10 Site Plan Amendment
171.05 Open Space, Landscaping, Parking and Architectural Requirements	171.11 Applicability to Existing Development
171.06 Zoning Permits – Application	171.12 Enforcement
	171.13 Changes and Amendments

171.01 TITLE. This chapter shall be known, cited, and referred to as “Site Plan Regulations of the City of Stuart, Iowa.”

171.02 PURPOSE AND APPLICATION. It is the intent and purpose of this chapter to establish a procedure which will enable the City to review certain proposed improvements to property within specified zoning districts of the City to insure compliance with all applicable zoning, subdivision, and building regulations. Site plans shall only be required whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel on and within any district of the Stuart Zoning Ordinance, and for any use, except one- and two-family dwellings.

171.03 DESIGN STANDARDS. The standards of design provided herein are necessary to insure the orderly and harmonious development of property in such manner as will safeguard the public’s health, safety, and general welfare.

1. The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide, or other endangerment of adjoining or surrounding property.
2. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property, and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter yards, refuse containers, and impairment of light and air. For the purpose of this chapter, the term “use and enjoyment of adjoining property” means the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term “use and enjoyment of adjoining property” means those uses permitted under the zoning districts in which such adjoining property is located.
3. The proposed development shall have such entrances and exits upon adjacent street and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets.
4. To such end as may be necessary and proper to accomplish the standards in subsections 1, 2, and 3 above, the proposed development shall provide fences, walls, screening, landscaping, erosion control, or other improvements.
5. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of this Code of Ordinances.

171.04 REQUIRED INFORMATION. All site plans required under 171.02 of this chapter, unless waived by the City Council, shall include as a minimum the following information:

1. Date of preparation, north point, and scale.
2. Legal description and address of the property to be developed.
3. Name and address of the record property owner, the applicant, and the person or firm preparing the site plan.
4. The existing and proposed zoning.
5. The existing topography with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations where necessary but not more than 50 feet apart in both directions, shall be indicated on site plan.
6. Existing and proposed utility lines and easements in accordance with City standard specifications and Subdivision Regulations.
7. Total number and type of dwelling units proposed; proposed uses for all buildings; total floor area of each building; estimated number of employees for each proposed use where applicable; and any other information which may be necessary to determine the number of off-street parking spaces and loading spaces required by the Zoning Ordinance.
8. Location, shape, and all exterior elevation views of all proposed buildings, for the purpose of understanding the structures and building materials to be used, the location of windows, doors, overhangs, projection height, etc. and the grade relationship to floor elevation, and the number of stories of each existing building to be retained and of each proposed building.
9. All required yard setbacks.
10. Location, grade, and dimensions of all existing and proposed paved surfaces and all abutting streets.
11. Complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading area, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements.
12. Location and type of existing or proposed signs and of any existing or proposed lighting on the property which illuminates any part of any required yard.
13. Location of existing trees six inches or larger in diameter, landslide areas, springs and streams and other bodies of water, and any area subject to flooding by a 100-year storm on site and downstream off site.
14. Location, amount, and type of any proposed landscaping. Location of proposed plantings, fences, walls or other screening as required by the zoning regulations and the design standards set forth in Section 171.03 of this chapter.
15. A vicinity map at a scale of one inch equals 500 feet or larger, showing the general location of the property, and the adjoining land uses and zoning.
16. Soil tests and similar information, if deemed necessary by the City Engineer, to determine the feasibility of the proposed development in relation to the design standards set forth in 171.03 of this chapter.

17. Where possible ownership or boundary problems exist, as determined by the Zoning Administrator, a property survey by a licensed land surveyor may be required.

171.05 OPEN SPACE, LANDSCAPING, PARKING AND ARCHITECTURAL REQUIREMENTS. The requirements set forth in this section for open spaces, landscaping, parking, and architectural standards shall apply to any development or redevelopment except one- and two-family dwellings.

1. Open Space Required. On each lot, except for one- and two-family dwellings, there shall be provided open space in accordance with the following schedule:

Zoning District	Percentage of Open Space
AG*	30
RS*	30
RM*	30
MH*	25
AC	25
LI	25
HI	25

*non-agricultural uses

A. Said open space shall be encumbered with any structure, or off-street parking or roadways and drives, and shall be landscaped and maintained with grass, trees and shrubbery. When the entire lot is not developed, the open space requirement shall be based in proportion to the area of the improved portion of the lot.

B. Each principal structure of an apartment or office complex on same site shall be separated from any other principal structure in the complex by an open space of not less than 16 feet.

2. Landscaping Required. Any development, except one- and two-family dwellings, shall provide the following minimum number and size of landscape plantings based on the minimum required open space for the development. The following is the minimum requirement of trees and shrubs, by number and size, and type of ground cover. Street trees planted in public street right-of-way subject to approval of the City shall not be counted toward fulfillment of the minimum site requirements set forth below. Plant species to be used for landscaping shall be acceptable to the City which are not considered a nuisance or undesirable species, such as trees with thorns, cottonwood or cotton-bearing poplars, elm trees prone to Dutch Elm Disease, box elder, and silver maple. Existing trees and shrubs to be retained on site may be counted toward fulfillment of the landscaping requirements.

A. Minimum requirements at the time of planting – two trees minimum or one tree of the following size per 1,500 square feet of open space, whichever is greater:

- 40 percent – 1½- to 2-inch caliper diameter
- Balance – 1- to 1½-inch caliper diameter

Evergreen trees shall not be less than six feet in height.

B. Minimum requirements at the time of planting – six shrubs, or one shrub per 1,000 square feet of open space, whichever is greater.

- C. To reduce erosion, all disturbed open space areas shall have ground cover of grass or native vegetation which is installed as sod, or seeded, fertilized, and mulched.
3. Buffer Required. The following conditions shall require a buffer, which shall be a landscaped area, wall, or other structure intended to separate and obstruct the view between two adjacent zoning districts, land uses or properties:
- A. Any Arterial Commercial (AC) and Light or Heavy Industrial (LI or HI) District that abuts any Residential (RS, RM or MH) District shall require a buffer as described in this section. The buffer shall be provided by the Arterial Commercial or Industrial uses when adjoining an RS, RM, or MH District.
- B. All Industrial Districts that abut any RS, RM or MH and AC Districts shall provide a buffer as required by this section.
- C. Any storage area, garbage storage, junk storage, or loading docks and loading areas in any District shall be screened from public street view by a buffer.
4. Buffers. Buffers required under the provisions of this section or elsewhere in the Zoning Ordinance shall be accomplished by any one or approved combination of the following methods:
- A. Buffer Wall. A buffer wall shall not be less than six feet in height; constructed of a permanent low-maintenance material such as concrete block, cinder block, brick, concrete, precast concrete, or tile block; the permanent low-maintenance wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; weather resistant wood may be used as a substitute material if designed with adequate structural integrity and permanency and approved by the Planning and Zoning Commission and City Council.
- B. Landscape Buffer. A landscape buffer shall not be less than 25 feet in width, designed and landscaped with earth berm and predominant plantings of evergreen type trees, shrubs, and plants so as to assure year-around effectiveness; height of berm and density and height of plantings shall be adequate to serve as a solid and impenetrable screen. A chain link fence may exist for security purposes, but is not considered a part of the landscape screening to satisfy the intent of this requirement.
5. Burden of Provision of Buffer. The burden of provision and selection of the buffer shall be as follows:
- A. Where two different zoning districts requiring a buffer between them are developed, the above requirement is not retroactive and a buffer is not required. If a buffer is desired, it shall be provided by mutual agreement between adjacent property owners. However, in the event of any or all of the improved property is abandoned, destroyed, or demolished, for the purpose of renewal or redevelopment, that portion of such property being renewed or redeveloped shall be considered vacant and subject to the requirements herein.
- B. Where one of two different zoning districts requiring a buffer between them is partly developed, the development of the vacant land shall assume the burden, unless otherwise specified herein.

- C. Where both zoning districts requiring a buffer between them are vacant or undeveloped, the burden shall be assumed by the developer of the land that is improved or developed, except for agricultural uses and unless otherwise specified herein.
6. **Waiver of Buffer Requirements.** The requirement for a buffer may be waived by the Council; provided, such waiver does not permit the exposure of undesirable characteristics of land use to public view.
7. **Surfacing Requirements.** All off-street parking and loading areas and access roadways shall have a durable and dustless surface paved with asphaltic or Portland cement concrete pavement in accordance with the requirements as herein set forth. Off-street parking of automobiles, vans, campers, trucks, trailers, tractors, recreational vehicles, boats, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or Portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way, except, however, the storage of a recreational vehicle, a camper, and boat within the side or rear yard upon an unpaved area shall be permitted. All off-street parking areas and associated driveways, access roadways and frontage roads, except driveways for single-family residences, shall be constructed with permanent, integrally attached six-inch high curbing or curbing of alternate height acceptable to the City (prefabricated portable curb stops shall not be considered an acceptable alternate), and shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. The curbing requirements may be waived if it is determined that surface drainage can be adequately handled by other means. The minimum thickness of pavement of the parking area shall be as follows:
- A. Portland cement concrete shall have a minimum thickness of five inches.
 - B. Asphaltic cement concrete shall have a minimum thickness of six inches.
 - C. Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways and access roadways, shall be specifically designed to accommodate the type and load bearing capacity of traffic anticipated. Driveways for attached townhouse style residences on private property shall be Portland cement concrete or asphaltic concrete with minimum thickness of five inches and six inches, respectively, with a sufficiently compacted and well-drained subgrade base and not greater than 18 feet in width.
8. **Landscaping, Screening and Open Space Requirements.** It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics that are inherent to their use; therefore, wherever practical and except for single- and two-family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view and contain shade trees within parking islands where multiple aisles of parking exist. Not less than five percent of the interior parking area shall be landscaped within parking islands.

9. **Off-Street Parking Access to Public Streets and Internal Traffic Circulation.** Off-street parking or loading facilities shall be designed so as to permit entrance and exit by forward movement of the vehicle for all uses, except single-family detached or row dwellings, which shall be permitted backward movement from a driveway. The backing or backward movement of vehicles from a driveway off-street parking or loading area onto an arterial street or highway shall be prohibited for all uses. Driveway approach returns shall not extend beyond the side lot line as extended, unless such driveway is of joint usage by the adjoining lots, and driveway approaches at roadway not greater than established in the Stuart Municipal Design Standards. The number of ingress/egress access points to public streets from off-street parking areas approved by the City and located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety and, as possible, not impair movement of vehicular traffic on public streets. The permitted number of ingress/egress driveway approaches to public streets for an off-street parking lot shall be dependent upon the projected future average daily traffic (ADT) for the public street and, as possible, public street accesses shall be located in alignment with driveway approaches gaining access to the same public street from property on approaches gaining access to the same public street from property on the opposite side of the street. The design of off-street parking and loading facilities shall provide traffic circulation for the internal forward movement of traffic within the parking lot, so designed, as not to impair vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

10. **Persons with Disabilities Parking Requirements.** Provision of persons with disabilities parking spaces within off-street parking areas shall be in accordance with applicable federal, State, and local regulations, properly identified with signage and provided with accessible ramps and walks in accordance with federal and State regulations, and comply with the following parking space minimum requirements:

Total Parking in Lot	Required Minimum Number of Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

11. **Traffic Analysis Requirements.** Any project which contains 100 dwelling units or 1,000 average daily trips as listed for uses in the Trip Generation Handbook; Institute of Transportation Engineers, current edition, shall submit a traffic analysis which provides necessary information to determine the effect that the project will have upon the surrounding traffic. At a minimum, the traffic analysis shall contain project trip generation, directional distribution of project trips, traffic assignment, and capacity analysis, including identification of congestion and turning-movement conflicts.

12. Waiver of Requirements. The City Council reserves the right to waive or modify to a lesser requirement any provision or requirement contained in this chapter, provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property. Exceptions will only be considered for those uses where special circumstances warrant a change.

13. Architectural Standards. As part of the submittal of a site plan for development within any of the zoning districts and for any of the uses except one- and two-family dwellings, architectural plans for buildings shall be submitted for review and approval of the City Council after recommendation from the Planning and Zoning Commission. Documentation to be submitted shall include building elevations showing the building's design and description of structural and exterior materials to be used. The following standards shall be considered by the City to review architectural plans:

A. Multiple-Family Dwellings in All Districts. The architecture of multiple-family buildings shall be designed in a manner compatible with adjoining residential uses in the neighborhood. Architectural design for multiple-family buildings shall include exterior building material, exterior details and texture, treatment of windows and doors, and a variety in the wall and roof design to lessen the plainness of appearance that can be characteristic of large residential buildings. Multiple-family buildings with single plane walls and boxy in appearance shall not be considered acceptable unless the use of exterior materials such as brick provides the elements necessary to enhance the building's physical appearance and eliminate its plainness of appearance. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters, and HVAC mechanical units) from any public street and adjoining properties shall be required. Buildings shall be designed or oriented not to expose loading docks, or loading areas to the public.

B. Nonresidential Uses in the RS, RM or MH Districts. Any building used for a permitted nonresidential use in RS, RM or MH Districts shall be designed and constructed with architecture and use of materials compatible with the residential uses within the neighborhood. Buildings located on a residential street in an RS, RM or MH District shall be residential in character, and exterior materials shall be wood, brick, and/or brick veneer. The architectural design shall be approved by the City.

C. All Uses within the Commercial Districts. Architectural design and use of materials for the construction of any building shall be approved by the City. Buildings within the Commercial Districts shall have as a primary element of the building exterior fascia glass, brick, concrete panels, textured concrete block, architectural steel or stone panels with all sides of any building built consistent in design and use of materials. No wood, masonite, visible asphaltic exterior wall or roof material, aluminum or steel siding, non-architectural sheet metal, non-textured concrete block, stucco, E.I.F.S. (Exterior Insulation and Finish System) or other similar materials shall constitute a portion of any building except as a trim material, unless the City Council, after receiving a recommendation from the Planning and Zoning Commission, shall determine said material when used as a primary element, does not distract from the physical appearance of the building. Adequate

treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Building shall not be designed or oriented to expose loading docks, nonresidential use overhead doors or loading areas to the public.

D. All Uses within Industrial Districts. Architectural design and use of materials for construction of any building in the Industrial Districts shall be reviewed as part of the site plan proposal and shall be approved by the City. While it is not the purpose of this section to dictate, specify, or restrict the use of building materials and structural elements, the use of appropriate exterior materials to enhance the appearance of a building is encouraged by the City. The exclusive use of sheet metal as an exterior building material shall not be considered acceptable for buildings facing public streets. The exterior material of the building's front elevation shall be comprised of brick, concrete panels, textured concrete block, architectural steel or stone panels, or other similar material. Loading areas, loading docks, storage areas, and garbage dumpsters shall be located, screened, or oriented to minimize their exposure to view from public streets.

171.06 ZONING PERMITS - APPLICATION. No zoning compliance permit or building permit shall be issued for the construction of any structure that is subject to the provisions of this chapter, until a site plan has been submitted for review covering the land upon which said structure is to be erected, and further, approved by City Council for such development in accordance with this chapter.

171.07 PROCEDURE.

1. Pre-Application Conference. Whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel of land within any district of the Stuart Zoning Ordinance, and any use, except one- and two-family dwellings, the person shall submit to the City Administrator a request for a pre-application conference. The conference shall include the applicant or his/her representative and the Zoning Administrator. The purpose of the conference shall be to acquaint the City staff with the proposed construction and to acquaint the applicant or his/her representative with the procedures and with any special problems that might relate to such construction. The applicant shall furnish a legal description of the subject real estate at the time of requesting a pre-application conference, and the conference shall be held within seven days of such request.

2. Continuous Site Plan Review. After completion of the pre-application conference as required by subsection 1 of this section, and in the event the applicant wishes to proceed with the construction as discussed at said conference, he/she shall cause to be prepared a site plan of such proposed construction, and shall submit five copies of the same to the Zoning Administrator and one copy to the City Engineer. The site plan shall be accompanied by a cover letter requesting review and approval of said plan. The site plan shall contain all the information required by 171.05 and 171.06 of this chapter unless otherwise waived by the Zoning Administrator. The Zoning Administrator shall retain one copy for his/her review and comment. The remaining copies shall be retained by the City Clerk for review and distribution. The Zoning Administrator and City Engineer shall review the plan for conformance of the

design to the standards and required data set forth in 171.04 and 171.05 of this chapter.

3. Action.

A. The Zoning Administrator shall promptly notify the applicant in writing of any revisions or additional information needed as required by 171.04 and 171.05. If necessary, the applicant shall make revisions and resubmit the revised plans to the Zoning Administrator for compliance. If the site plan complies with requirements set forth in this chapter, the applicant shall submit 10 copies of the plan to the Planning and Zoning Commission for approval, disapproval, or approval subject to conditions.

B. The Commission shall in its regularly scheduled meeting, act upon the site plan and accompanying material. The City Engineer, City staff and other departments shall submit to the Commission their recommendation. Applicant or a representative shall be present at the meeting. Action of the Commission shall be approval, approval subject to conditions, or denial.

C. Approval by Commission. In the case of approval by Commission, the approval shall be documented on seven copies of the site plan. One copy shall be returned to the applicant, one copy retained by the Commission and five copies shall be forwarded to the City Council.

D. Conditional Approval by Commission. In the case of approval subject to conditions by the Commission, the approval shall be documented on seven copies of the site plan and the conditions determined attached thereto. One copy shall be returned to the builder, one copy shall be retained by the Commission, and five copies shall be forwarded to the City Council. The applicant shall provide revised copies of the site plan in accordance with the Commission action and submit 10 copies to the City Clerk prior to Council action. The City Clerk shall forward one copy to the City Engineer, five copies to the City Council and one copy for the Commission files.

E. Disapproval by Commission. In the case of disapproval by the Commission, the disapproval shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one copy shall be retained by the Commission, and one copy shall be retained by the City Clerk.

F. Council Action. At the next regularly scheduled Council meeting following Commission action, the Council shall act on the site plan and accompanying material. Applicant or a representative shall be present at the meeting. Action of the Council shall be approval or denial, except as provided in Section 171.05(12).

G. Approval by Council. In the case of approval by the Council, the approval shall be documented on three copies of the site plan. One copy shall be returned to the applicant. One copy shall be forwarded to the Commission, one copy shall be retained by the City Clerk. Applicant may then proceed with approval of building permit and accompanying material.

H. Denial by Council. In the case of denial by the Council, the denial shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one to the Commission, and one copy shall be retained by the City Clerk.

I. Re-Submittal of Site Plan Denied by Council. A site plan that has been approved by the Commission and denied by the Council may be revised by the applicant in accordance with the council action and 10 copies resubmitted to the Commission for approval as before.

J. Re-Submittal of Site Plan Denied by Council and Commission. A site plan that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes 10 copies of the preliminary plat and filing fees. Re-submittal under these terms shall be considered a new site plan subject to fees and procedures outlined in Section 171.07.

171.08 FEES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for site plan approval and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the City Clerk, and may be altered or amended only by the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. Applicant shall be responsible for just and reasonable costs incurred by the City for review of preliminary and final site plans deemed necessary by the City to insure proper conformance with City ordinance and site plan regulations.

171.09 VALIDITY OF APPROVAL.

1. A site plan shall become effective upon certification of approval by the City Council.
2. The City Council approval of any site plan required by this chapter shall remain valid for one year allowing one-year extension with approval of City Council upon recommendation of the Commission after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter, "actual construction" means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction.

171.10 SITE PLAN AMENDMENT. Any site plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that the Zoning Administrator may waive such procedures for those minor changes hereinafter listed. Such minor changes shall not be made unless the prior written approval for such changes is obtained from the Zoning Administrator. No fees shall be required for such minor changes.

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building. Relocation of building entrances or exits, shortening of building canopies.
2. Changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirement of the Stuart Zoning Ordinance. This does not apply to residential uses.
3. Changing angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved.

4. Substituting plant species provided a landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.
5. Changing type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at property boundary.
6. Increasing peripheral yards.

171.11 APPLICABILITY TO EXISTING DEVELOPMENT. The requirements of this chapter shall not apply to the placement of any structure for which building permits have been issued as of the date of the adoption of the ordinance codified in this chapter, provided that if such building permit shall expire, then a new building permit shall not be issued until the requirements of this chapter have been met. Provided further, that if an existing structure is to be reconstructed, enlarged, expanded, or otherwise increased:

1. In the case of building uses, in an amount 50 percent or greater of its existing ground coverage and/or total floor space; or
2. In the case of non-building uses or non-building portion of uses, in the amount 50 percent or greater of the existing developed non-building site area, then the provisions of this chapter shall apply.

171.12 ENFORCEMENT. No zoning ordinance certification, occupancy permit, or building permit shall be issued by the City or have any validity until the site plan has been approved in the manner prescribed herein.

171.13 CHANGES AND AMENDMENTS. Any provision of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall not become effective until after study and report by the Commission and until after a public hearing has been held, public notice of which shall be given in a newspaper of general circulation at least 15 days prior to the hearing.

o o o o o o o o o o

INDEX TO CODE OF ORDINANCES

**CHAPTER OR SECTION
NUMBER**

ABANDONED BUILDINGS	145
ABANDONED OR UNATTENDED REFRIGERATORS	41.08
ABANDONED UTILITY CONNECTIONS	
On-Site Wastewater Treatment and Disposal Systems	98.07
ABANDONED VEHICLES	80
<i>See also</i> Impounding Vehicles	70.07
<i>See also</i> State Code Traffic Regulations	62.01
ABANDONMENT OF CATS AND DOGS	55.15
ABATEMENT OF NUISANCES	50
ACCESS CONTROLLED	140
ACCESSORY BUILDINGS	168.12(4)
ACCOUNTING RECORDS	7.04
AIR POLLUTION	50.02(8)
<i>See also</i> ENVIRONMENTAL VIOLATION	3.02
AIRPORT AIR SPACE	50.02(11)
ALCOHOL	
Consumption and Intoxication	45
In Parks	47.09
Liquor Licenses and Wine and Beer Permits	120
Minors in Taverns	46.04
Open Containers in Motor Vehicles.....	62.01(49) and (50)
Outdoor Service Areas	120.06
Social Host Liability	45.04
ALL-TERRAIN VEHICLES AND SNOWMOBILES	75
AMUSEMENT DEVICES	120.07
ANGLE PARKING	69.04 and 69.05
ANIMAL PROTECTION AND CONTROL	
Abandonment of Cats and Dogs	55.15
Animal Neglect	55.09
Animal Nuisance.....	55.10
At Large Prohibited.....	55.03
Confinement of Animals Suspected of Having Rabies	55.07
Dangerous and Vicious Animals.....	56
Duty to Report Attacks.....	55.08
Enclosures	55.14
Impounding	55.04 - 55.05
Livestock.....	55.02

	CHAPTER OR SECTION NUMBER
ANIMAL PROTECTION AND CONTROL (continued)	
Pet Awards Prohibited.....	55.16
Rabies Vaccination.....	55.06
Standard of Care.....	55.09
Types of Animals Permitted.....	55.13
ANTENNA AND RADIO WIRES	41.09
APPOINTMENTS	
By Council.....	17.05
By Mayor.....	15.03
ASSAULT	40.01
ATTORNEY FOR CITY	20
AUTOMOBILE REPAIR ON PUBLIC PROPERTY	69.06(2)
AWNINGS	136.12
BARBED WIRE AND ELECTRIC FENCES	41.10
BEER GARDENS	120.06
BEER, LIQUOR, AND WINE CONTROL	
<i>See ALCOHOL</i>	
BICYCLES	76
<i>See also</i> Clinging to Vehicles.....	62.04
<i>See also</i> State Code Traffic Regulations	62.01
BILLBOARDS	50.02(6) and 62.06
BONDS	
City Officials	5.02
House Movers.....	123.04
Public Bonds, Records of	18.08(3)
Transient Merchants	122.06
BUDGET	7.04
BUILDING CODES	148
BUILDING MOVERS	123
BUILDING NUMBERING	150
BUILDING SEWERS AND CONNECTIONS	96
BUILDINGS, DANGEROUS	145
BULKY RUBBISH	106.05
BURNING	
Burning on Streets and Alleys.....	135.08
Fires in Parks	47.03
Fires or Fuel on Sidewalks	136.15

	CHAPTER OR SECTION NUMBER
BURNING (continued)	
Open Burning Restricted.....	105.05
Yard Waste.....	105.06
BUSINESS DISTRICT	60.02(1)
<i>See also:</i>	
Bicycles on Sidewalks.....	76.09(1)
Sidewalks	136.08(5)(B)
CABLE TELEVISION REGULATIONS	111
CAMPING IN PARKS	47.06
CAR WASHING ON STREETS	135.07
CHANGE FUND	7.03(4)
CHARTER	2
CIGARETTES AND TOBACCO	
Permits	121
Possession by Minors.....	46.02
CITY ADMINISTRATOR	21
CITY ATTORNEY	20
CITY CHARTER	2
CITY COUNCIL	
Appointments by	17.05
Compensation.....	17.06
Meetings.....	17.04 and 5.06
Number and Term	2.04 and 17.01
Powers and Duties.....	17.02 and 17.03
CITY ELECTIONS	6
CITY OFFICERS AND EMPLOYEES	
Appointments by Council	17.05
Appointments by Mayor	15.03
Bonds	5.02
City Administrator	21
City Attorney.....	20
City Clerk.....	18
City Council	17
City Treasurer.....	19
Conflict of Interest	5.07
Discretionary Powers	1.13
Extension of Authority.....	1.07
Fire Chief	35
Gifts to.....	5.11
Harassment of.....	41.05

CHAPTER OR SECTION
NUMBER

CITY OFFICERS AND EMPLOYEES (continued)

Indemnity of 1.04

Mayor 15

Oath of Office..... 5.01

Police Chief 30

Powers and Duties 5.03

Removal of an Officer’s Communication or Control Device..... 41.07

Removal of Appointed Officers and Employees 5.09

Resignations 5.08

Sewer Superintendent..... 95.03

Vacancies 5.10

CITY OPERATING PROCEDURES 5

CITY POWERS..... 1.03

CITY SEAL..... 18.13

CIVIL CITATIONS 3.04

CLINGING TO VEHICLE 62.04

CODE OF IOWA TRAFFIC REGULATIONS 62.01

CODE OF ORDINANCES

Altering..... 1.10

Amendments to..... 1.08

Catchlines and Notes 1.09

Definitions of Terms 1.02

Rules of Construction..... 1.06

Validity..... 1.11

COMPENSATION

Changes in 17.02(7)

City Administrator..... 21.02

City Attorney 20.01

City Clerk 18.01

Council Members 17.06

Mayor 15.04

Mayor Pro Tem 16.04

Set by Council 17.02(7)

Treasurer..... 19.02

CONFLICT OF INTEREST 5.07

CONTRACT LAW ENFORCEMENT 30.11

CONTRIBUTING TO DELINQUENCY 46.03

CONTROLLED ACCESS FACILITIES 140

See also Parking 69.07(19)

	CHAPTER OR SECTION NUMBER
COUNCIL	17
COUNCIL MEETINGS	17.04
CRIMINAL MISCHIEF	42.02
CROSSWALKS	
Designation and Maintenance	61.03
Parking Prohibited in	69.07(1)
Pedestrians in Crosswalks	65.05
CURFEW	46.01
DANGEROUS AND VICIOUS ANIMALS	56
DANGEROUS BUILDINGS	145
DANGEROUS SUBSTANCES, DISTRIBUTING OF	41.01
DANGEROUS TOYS (THROWING AND SHOOTING)	41.12
DEFACING PROCLAMATIONS AND NOTICES	42.03
DEPOSITS AND INVESTMENTS	7.03(2)
DESTRUCTION OF PROPERTY	42.02
DISCRETIONARY POWER OF CITY OFFICERS AND EMPLOYEES	1.13
DISORDERLY CONDUCT	40.03
DOG LICENSE	57
DOGS	55
<i>See also</i> ANIMALS	
DRIVEWAY CULVERTS	135.13
DRUG PARAPHERNALIA	43
DUTCH ELM DISEASE	50.02(10)
EASEMENTS, USE OF	95.08
ECONOMIC DEVELOPMENT PROPERTY TAX EXEMPTION	8
ELECTIONS	
Duties of Clerk	18.12
Procedures.....	6
ELECTRIC UTILITY BOARD OF TRUSTEES	24
ELECTRICAL CODE	148.03(4)
ENERGY CONSERVATION CODE	148.03(8)
ENVIRONMENTAL VIOLATIONS	3.02

CHAPTER OR SECTION
NUMBER

EXCAVATIONS
 Sewer..... 96.06
 Streets..... 135.09

EXISTING BUILDING CODE..... 148.03(10)

EXTENSION OF AUTHORITY 1.07

FAILURE TO DISPERSE..... 40.05

FALSE IDENTIFICATION INFORMATION 41.03

FALSE REPORTS
 Of Catastrophe..... 40.03(5)
 To Public Safety Entities..... 41.02

FENCES
 Barbed Wire and Electric Fences 41.10
 Blocking Public and Private Ways..... 50.02(5)
 Zoning Regulations 168.12(5)

FIGHTING..... 40.03(1)

FINANCE OFFICER..... 7.02

FINANCES..... 7

FINANCIAL REPORTS..... 7.04

FIRE AND RESCUE DEPARTMENT 35

FIRE CODE..... 148.03(5)

FIRE HAZARD CONDITIONS
 Fire Zone Requirements 147
 Health and Fire Hazard..... 105.04
 Storing of Flammable Junk 50.02(7)
 Unsafe Buildings 145
 Weeds and Brush..... 50.02(9)

FIRE SPRINKLER SYSTEMS CONNECTIONS..... 91.03

FIRE ZONE 147

FIRES
 In Parks..... 47.03
 On Sidewalks..... 136.15
 Open Burning Restricted..... 105.05

FIREWORKS..... 41.14

FISCAL MANAGEMENT 7

FLAG, DISRESPECT OF 40.03(6)

FORM OF GOVERNMENT..... 2.02

FRAUD..... 42.05

	CHAPTER OR SECTION NUMBER
FUEL GAS CODE	148.03(9)
FUNDS	7.04
FUNERAL SERVICE, DISRUPTION OF	40.03(8)
<i>See also</i> State Code Traffic Regulations	62.01
GANG ACTIVITY	50.02(12)
GARAGES AND ACCESSORY BUILDINGS	168.12(4)
GARBAGE COLLECTION AND DISPOSAL	105 and 106
GAS FRANCHISE	110
GIFTS TO CITY OFFICIALS	5.11
GRADES OF STREETS, ALLEYS AND SIDEWALKS	138
HANDICAPPED PARKING	
<i>See</i> Persons with Disabilities Parking	69.08
HARASSMENT	
Of Other Persons	40.02
Of Public Officers and Employees	41.05
HAZARDOUS SUBSTANCE SPILLS	36
HAZARDOUS WASTE	105.08
<i>See also</i> Prohibited and Restricted Discharges to Sewer System.....	97.03 and 97.04
HISTORIC PRESERVATION	25
HITCHHIKING	67.02
HOTEL/MOTEL TAX	124
HOUSE MOVERS	123
HOUSE NUMBERS	150
HOUSES OF ILL FAME	50.02(12)
IMPOUNDING	
Animals	55.04
Vehicles.....	70.07 and 80.02
INDEMNITY AGREEMENT; PERMITS AND LICENSES	1.04
INDUSTRIAL PROPERTY TAX EXEMPTIONS	8
INSURANCE REQUIREMENTS	
Firefighters	35
Fireworks	41.14
House Movers	123.05
Street Excavations	135.09

	CHAPTER OR SECTION NUMBER
INTERFERENCE WITH OFFICIAL ACTS	41.06
INVESTMENTS AND DEPOSITS	7.03(2)
JUNK AND JUNK VEHICLES	51
<i>See also</i> Storing of Flammable Junk	50.02(7)
LEGAL OPINIONS	20.06
LIBRARY	22
LICENSES	
Dogs	56
Drivers.....	62.01
Liquor.....	120
Peddlers, Solicitors and Transient Merchants	122
Salvage Dealers	125.02
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> PERMITS	
LIQUOR LICENSES AND WINE AND BEER PERMITS	120
LITTERING	
Debris on Sidewalks.....	136.17
Park Regulations.....	47.04
Placing Debris on Streets	135.03
Solid Waste Control	105.07
LIVESTOCK	55.02
LOAD AND WEIGHT RESTRICTIONS, VEHICLES	66
LOITERING	40.04
MANUFACTURED AND MOBILE HOMES	146
<i>See also:</i>	
Mobile Homes (Zoning Regulations).....	168.06
MAYOR	
Appointments	15.03
Compensation.....	15.04
Powers and Duties	15.02
Term of Office.....	15.01
Voting.....	15.05
<i>See also</i> CITY OFFICERS AND EMPLOYEES	
MAYOR PRO TEM	16
MECHANICAL CODE	148.03(2)
MEETINGS	
Council Meetings	17.04
Procedures for Notice and Conduct of	5.06
Publication of Minutes of Council Meetings.....	18.03

	CHAPTER OR SECTION NUMBER
MINORS	46
<i>See also:</i>	
Amusement Devices.....	120.07
Employment for Serving of Alcohol.....	120.05(4)
In Licensed Premises.....	120.05(10)
Persons Under Legal Age.....	45.01
Persons Under Legal Age.....	121.07
MOBILE HOMES	146
<i>See also</i> ZONING REGULATIONS	168.06
MUNICIPAL INFRACTIONS	3
<i>See also</i> MUNICIPAL INFRACTION ABATEMENT PROCEDURE	50.07
NAMING OF STREETS	139
NATURAL GAS FRANCHISE	110
NOISE POLLUTION	52
<i>See also:</i>	
Annoyance or Disturbance (Barking Dogs).....	55.10(2)
Disorderly Conduct	40.03(2) and 40.03(8)
Quiet Zones	62.05
Sound System Operation in Vehicle	62.08
Truck Parking.....	69.09(3)
NOMINATIONS FOR ELECTIVE OFFICES	6
NUISANCE ABATEMENT PROCEDURE	50
NUMBERING OF BUILDINGS	150
OATH OF OFFICE	5.01
OFFENSIVE SMELLS AND SUBSTANCES	50.02(1) and (2)
<i>See also</i> Restricted Discharges to Sanitary Sewer System.....	97.04
OFF-ROAD MOTORCYCLES AND UTILITY VEHICLES	75
ONE-WAY TRAFFIC	68
OPEN BURNING	105.05
OPEN CONTAINERS IN MOTOR VEHICLES	62.01(49) and (50)
OPEN MEETINGS	5.06
OPERATING PROCEDURES	5
PARADES REGULATED	60.08
PARK REGULATIONS	47
<i>See also</i> Parks, Cemeteries and Parking Lots (Speed Limits).....	63.03

CHAPTER OR SECTION
NUMBER

PARKING REGULATIONS

Angle Parking..... 69.04 and 69.05
 Illegal Purposes 69.06
 Park Adjacent to Curb 69.02 and 69.03
 Parking of Bicycles 76.12
 Parking Prohibited..... 69.07
 Parking Violations..... 70.03 - 70.05
 Persons With Disabilities Parking 69.08
 Snow Removal 69.10
 Snow Routes..... 69.11
 Truck Parking Limited 69.09

PEACE OFFICERS

Failure to Assist..... 41.04
 Interference with..... 41.06
 Obedience to..... 60.07
 Powers and Authority under Traffic Code 60
 Qualifications 30.03
 Removal of an Officer’s Communication or Control Device..... 41.07
 Training 30.04

See also **POLICE DEPARTMENT** 30

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS 122

PEDESTRIANS 67

See also:

Crosswalks 61.03
 State Code Traffic Regulations 62.01
 Yield to Pedestrians in Crosswalks 65.05

PENALTIES

Abatement of Violation of Sewer Connection Requirements 96.09
 Additional Penalties – Cigarette and Tobacco Permits 121.07
 Curfew Violations 46.01(6)
 Municipal Infractions 3
 Special Penalties (Sanitary Sewer Regulations)..... 95.09
 Special Penalty (Bicycle Regulations) 76.14
 Standard Penalty for Violation of Code of Ordinances..... 1.14
 Traffic Code Violations..... 70

PERMITS

Beer and Wine 120
 Building..... 167.02
 Cigarette and Tobacco..... 121.02
 Fireworks..... 41.14
 House Mover 123.02
 On-Site Wastewater System..... 98.04
 Open Burning 105.05

	CHAPTER OR SECTION NUMBER
PERMITS (continued)	
Parade.....	60.08(2)
Persons with Disabilities Parking.....	69.08
Sewer Connection	96.01
Sidewalks	136.07
Street Excavation	135.09(1)
Vehicles, Excess Size and Weight	66.02
Vending Machines and Sales Stands on Sidewalks	136.19
Zoning/Building	167.02
<i>See also</i> Issuance of Licenses and Permits.....	18.10
<i>See also</i> LICENSES	
PERSONAL INJURIES	1.05
PET AWARDS PROHIBITED	55.16
PETTY CASH FUND	7.03(3)
PLANNING AND ZONING COMMISSION	23
PLAY STREETS	62.02
<i>See also</i> Playing in Streets	135.04
PLUMBING CODE	148.03(3)
POLICE DEPARTMENT	30
<i>See also</i> RESERVE PEACE OFFICERS	31
POLLUTION	
Air Pollution.....	50.02(8)
Environmental Violations	3.02
Hazardous Substance Spills	36
Incinerators Required.....	105.10
Open Burning Restricted.....	105.05
Prohibited Discharges to Public Sewer	97.03
Restricted Discharges to Sewer System.....	97.04
Toxic and Hazardous Wastes	105.08
Water Pollution	50.02(4)
POWERS AND DUTIES	
City Administrator	21
City Clerk.....	18.02
City Council	17.02 and 17.03
City Officers Generally	2.03
Fire Chief	35.07
Mayor	15.02
Mayor Pro Tem	16.02
Municipal Officers	5.03
Police Chief.....	30.07

	CHAPTER OR SECTION NUMBER
PRIVATE PROPERTY	42
PRIVATE WATER SYSTEMS (SEWER CHARGES)	99.03
PROPERTY MAINTENANCE CODE	148.03(6)
PROPERTY TAX EXEMPTIONS	8
PUBLIC AND PRIVATE PROPERTY	
Criminal Mischief.....	42.02
Damage to Sewer System.....	95.04(1)
Defacing Proclamations or Notices	42.03
Fraud.....	42.05
Injury to Library Books or Property	22.10
Littering Prohibited	105.07
Park Regulations.....	47
Public and Private Property	42
Sidewalk Regulations	136
Street Excavations	135
Theft	42.06
Trees and Shrubs on Public Property	151
Trespassing	42.01
Unauthorized Entry	42.04
PUBLIC HEALTH AND SAFETY	41
PUBLIC NOTICES	18.05(1)
PUBLIC OFFENSES	
Drug Paraphernalia.....	43
Littering Prohibited	105.07
Public and Private Property	42
Public Health and Safety	41
Public Peace	40
<i>See also</i> SIDEWALK REGULATIONS	136
<i>See also</i> STREET EXCAVATIONS	135
PUBLICATION REQUIREMENTS	18.05
RABIES VACCINATION	55.06
RECORDS	
Accounting	7.04
Fire Department.....	35.08(12)
Maintenance by Clerk	18.08
Minutes of Council Meetings	5.06(3)
Public Records, Access to	5.04
Transfer to Successors.....	5.05

	CHAPTER OR SECTION NUMBER
RECYCLING	105.11
REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES	5.09
RESERVE PEACE OFFICERS	31
RESIDENTIAL CODE	148.03(7)
RESIGNATION OF ELECTED OFFICERS	5.08
RIGHT TO ENTER	
Sewer Service Inspection and Sampling	95.07
Solid Waste Collection.....	106.06
Use of Easements	95.08
Warrants	1.12
SALVAGE DEALERS AND YARDS	125
SANITARY SEWER SYSTEM	
Building Sewers and Connection Requirements	96
Connection Charges	100
General Provisions	95
On-Site Wastewater Systems	98
Sewer Service Charges.....	99
Use of Public Sewers	97
SCHOOL STREETS CLOSED	62.07
SEWER CONNECTION CHARGES	100
SEWER RATES	99
SIDEWALKS	
Barricades and Warning Lights.....	136.09
Bicycles on Sidewalks.....	76.09
Construction Standards	136.08
Debris on	136.17
Defacing	136.16
Encroaching Steps.....	136.13
Fires and Fuel on.....	136.15
Interference with Improvements	136.11
Maintenance	136
Openings and Enclosures	136.14
Parking Prohibited on Sidewalks	69.07(4)
Sales Stands and Merchandise Displays	136.18 and 136.19
Snow Removal	136.03
Vehicles Crossing Sidewalks	65.03
Vehicles on Sidewalks	62.03
SITE PLAN REGULATIONS	171
SKATES AND SKATEBOARDS	77
<i>See also</i> Clinging to Vehicle	62.04

CHAPTER OR SECTION
NUMBER

SNOW REMOVAL
 From Sidewalks 136.03
 From Streets 135.12
 Parking 69.10 and 69.11

SNOWMOBILES AND ALL-TERRAIN VEHICLES 75

SOLICITORS, PEDDLERS AND TRANSIENT MERCHANTS 122

SOLID WASTE CONTROL
 Collection 106
 General Provisions 105
See also Restricted Discharges to Sewer System 97.04

SPEED REGULATIONS 63

STATE CODE TRAFFIC REGULATIONS 62.01

STOP OR YIELD REQUIRED 65

STORM WATER CONTROL 149
See also:
 Discharge to Sanitary Sewer Prohibited..... 95.04(2) and 97.01
 Surface Water Exception..... 97.02

STREET NAME MAP 139.04 and 139.05

STREETS AND ALLEYS
 Billboards and Signs Obstructing View 50.02(6)
 Blocking Public and Private Ways 50.02(5)
 Excavations and Maintenance 135
 Grades..... 138
 Naming 139
 Obstructing Use of Streets..... 40.03(7)
 Vacation and Disposal..... 137
See also **TRAFFIC CODE**

SUBDIVISION REGULATIONS 170

TAX EXEMPTIONS
 Economic Development 8

TAXES, HOTEL AND MOTEL 124

TERMS OF OFFICE
 City Administrator..... 21.01
 Clerk 18.01
 Council 2.04 and 17.01
 Mayor 2.05 and 15.01
 Treasurer..... 19.01

THEFT
 Library Property 22.11
 Public and Private Property 42.06

	CHAPTER OR SECTION NUMBER
TOBACCO PERMITS	121
TOXIC AND HAZARDOUS WASTE	105.08
TRAFFIC CODE	
Administration of	60
Enforcement Procedures	70
General Regulations	62
Load and Weight Restrictions	66
One-Way Traffic	68
Parking Regulations	69
Pedestrians	67
Speed Regulations	63
Stop or Yield Required.....	65
Traffic Control Devices.....	61
Turning Regulations.....	64
TRAFFIC CONTROL DEVICES	
Installation; Standards; Compliance.....	61
Traveling on Barricaded Street or Alley	135.05
TRAFFIC REGULATIONS	62.01
TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS	122
TREASURER	19
TREES	
Disease Control	151.05
Dutch Elm Disease.....	50.02(10)
Duty to Trim Trees.....	151.03
Inspection and Removal of.....	151.06
Maintenance of Parking or Terrace	135.10
Obstructing View at Intersections	62.06
Open Burning Restrictions	105.05
Planting Restrictions	151.02
Trimming Trees to be Supervised	151.04
Yard Waste.....	105.06
TRESPASSING	42.01
TRUCK PARKING LIMITED	69.09
TRUCK ROUTES	66.05
TURNING REGULATIONS	64
UNAUTHORIZED ENTRY	42.04
UNLAWFUL ASSEMBLY	40.04
URBAN RENEWAL	9

	CHAPTER OR SECTION NUMBER
URBAN REVITALIZATION AREA	10
URINATING AND DEFECATING IN PUBLIC	41.13
UTILITIES	
Cable Television.....	111
Electric	24
Natural Gas.....	110
Sewer Service System	95 - 100
Utility Board of Trustees.....	24
Water Service System	24
U-TURNS	64.02
VACANCIES IN OFFICE	5.10
VACATING STREETS OR ALLEYS	137
VETO	
Council May Override.....	17.03
Mayor’s Authority.....	15.02(4)
VICIOUS ANIMALS	56
VIOLATIONS	
Cigarette and Tobacco Violations (Sale to Minors)	121.07
Environmental	3.02
Municipal Infractions	3
Parking	70
Special Penalties for Violation of Sanitary Sewer Regulations	95.09
Standard Penalty for Violation of Code of Ordinances.....	1.14
Traffic.....	62.01
Zoning	167.08
WARRANTS	1.12
WASTE STORAGE CONTAINERS	105.09
WATER CONSERVATION	91
WATER POLLUTION	50.02(4)
WATER UTILITY BOARD	24
WEAPONS	
Discharging Weapons in City Limits	41.11
Taking Weapons During Arrest.....	30.10
Throwing and Shooting	41.12
WEEDS AND BRUSH	50.02(9)
WINE	
<i>See</i> ALCOHOL	

CHAPTER OR SECTION
NUMBER

YARD REQUIREMENTS
See ZONING REGULATIONS..... 165 - 168

YARD WASTE..... 105.06

YIELD REQUIRED..... 65

ZONING REGULATIONS

- Administration and Enforcement 167
- Definitions and General Provisions..... 165
- District Regulations..... 168
- Nonconforming Uses and Structures..... 166

CHAPTER OR SECTION
NUMBER

o o o o o o o o o o

APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances, and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF STUART, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Stuart, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Stuart, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF STUART, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of Stuart, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Stuart, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF STUART, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Stuart, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Stuart, Iowa, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks. (2) vacating streets or alleys. (3) authorizing the issuance of bonds. and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

**AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO
(2) RAILROAD ADDITION TO STUART, IOWA**

Be It Enacted by the City Council of the City of Stuart, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to Stuart, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Stuart, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Stuart, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Stuart, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Stuart, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Stuart, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Stuart, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Stuart, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Stuart, Iowa, will meet on the ___ day of _____, 20___, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Stuart, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Stuart, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on

(Name of Property Owner)

through _____, Agent,

(Agent’s Name or “None”)

to make connection of the property described as

to the public sanitary sewer located _____

within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____,
_____, _____,
_____, _____,

NAYS: _____,
_____, _____,
_____, _____,

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk