

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 Clarinda, 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 Clarinda, Iowa.
3. “Clerk” means the city clerk of Clarinda, 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 Clarinda, Iowa.
6. “Council” means the city council of Clarinda, Iowa.
7. “County” means Page County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Clarinda, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

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

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

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

1.03 CITY POWERS. The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City and of its residents, and 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 all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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 sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (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]

CHAPTER 2

CHARTER

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

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

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council with appointed Manager 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 (5) Council Members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) years.
(Code of Iowa, Sec. 376.2)

2.06 COPIES ON FILE. The Clerk shall keep an official copy of the charter on file with the official records of the Clerk and the Secretary of State, and shall keep copies of the charter available at the Clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 598 adopting a charter for the City was passed and approved by the Council on June 24, 1975. Pursuant to a City election held on November 6, 2012, all Council Members are elected at large.

o o o o o o o o o o

CHAPTER 3

BOUNDARIES

3.01 Corporate Limits

3.02 Precincts Established

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

1. Official Plat. The boundaries of the City are drawn and shown on an outline plat of the City and the outline plat is hereby declared to be the official plat of the City limit lines of the City.
2. Plat Recorded. The official plat shall be recorded with the County Recorder, Page County, Iowa, and be made a part of the records of that office and the office of the Clerk.

3.02 PRECINCTS ESTABLISHED. The City is hereby divided into three (3) precincts as follows:

1. The First Precinct consists of that part of the City starting at the intersection of the west City limits and State Street, thence east to the intersection of 22nd and State Streets, thence north to the intersection of 22nd and Nishna Streets, thence east to the intersection of 12th and Nishna Streets, thence south to the intersection of 12th and Tarkio Streets, thence east to the intersection of 9th and Tarkio Streets, thence south to the intersection of 9th and Nodaway Streets, then east to the intersection of 8th and Nodaway Streets, thence south to the intersection of 8th and State Streets, then east to the intersection of 1st and State Streets, thence south to the intersection of 1st Street and the river dam road, thence east to the east City limits.
2. The Second Precinct consists of that part of the City lying south of a line starting at the west intersection of State Street and Highway #2 By-Pass and includes all of that part of the City lying south of the First Precinct south boundary line, and north of a line starting at the intersection of Garfield Street and Highway #2 By-Pass, thence east to the intersection of Garfield and Cardinal Drive Streets, thence north to the intersection of Cardinal Drive and Main Street, thence east to the intersection of Main and 18th Streets, thence south to the intersection of 18th and Stuart Streets, thence east to the intersection of Stuart and 16th Streets, thence south to the intersection of 16th and Grant Streets, thence east to the intersection of Grant and 9th Streets, thence south to the intersection of 9th and Garfield Streets, thence east to the intersection of Garfield and 7th Streets, thence north to the intersection of 7th and Grant Streets, thence east to the intersection of Grant and 4th Streets, thence south on 4th Street to its intersection with Garfield, thence east to Schenck's Road and southeast on Schenck's Road to its intersection with Highway #2 and 71 By-Pass, thence east to the City limits.
3. The Third Precinct includes all of that part of the City lying south of the south boundary line of the Second Precinct to the south City limits and from the east City limits to the west City limits.

o o o o o o o o o o

CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$150.00
 - B. Second Repeat Offense – Not to exceed \$500.00
 - C. Each Additional 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 one thousand dollars (\$1,000.00) for each day a violation exists or continues.

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

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

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

4.05 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

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

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

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

[The next page is 21]

CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest

5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts
5.12 Employee Residence Requirements
5.13 Use of City-Owned Equipment

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

(Code of Iowa, Sec. 362.5[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 (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

(Code of Iowa, Sec. 362.5[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 fifteen hundred dollars (\$1,500.00) in a fiscal year.

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

5.12 EMPLOYEE RESIDENCE REQUIREMENTS. All full-time employees of the City shall reside within the corporate limits of the City, except any such employee may, when authorized by the appointing authority, reside outside the corporate limits of the City if it is determined that such residence is in close enough proximity to the corporate limits that said employee is readily available for duty.

5.13 USE OF CITY-OWNED EQUIPMENT. In view of City ordinances requiring certain pavement, curb cutting, restoration, and other miscellaneous acts to be done by the City or under City supervision, the City has established the following policy governing City officers' and employees' acts regarding use of highly specialized and sophisticated equipment owned by the City, which cannot be obtained by private citizens, other cities, townships, and counties at economical rates, as necessary for these several purposes.

1. Reimbursement Required. To insure that such equipment shall be charged and the City reimbursed at a rate that will fully compensate the City for the use of such specialized equipment and to insure that no private persons or other governmental units be allowed the use of said equipment at the expense of the City taxpayers, the City Manager shall present and maintain in a current status rental or use rates based upon private manuals plus an additional cost for labor at rates applicable for the hours and time of work to include proportional costs for all and any obligations of the City for the operators or assistants required to operate, supervise and use the equipment, plus charges for overhead to include billing and collecting of all charges.
2. City Operator Required. No equipment shall be rented unless accompanied by a qualified City operator who operates and supervises the equipment throughout the rental period.
3. Equipment Unavailable Locally. No equipment shall be rented to a private party unless there is no privately owned equipment available locally within a reasonable amount of time for rent.
4. Priority of City Use. No equipment shall be rented at a time that would interfere with scheduled City work or that would interfere with City obligations to the taxpayers.
5. Rates Subject to Approval. All rates and charges for materials shall be subject to Council approval.

6. Rate Schedule Maintained. The City Manager shall maintain a current list of rates to be charged for City-owned equipment under the limitations and provisions of this section. The City Manager shall update this list annually.

7. Intergovernmental Cooperation. The Council may authorize discounts on the established rates to another governmental agency where such governmental agency has other specialized equipment which the City may need in its normal operations and which also gives discounts to the City when renting that agency's equipment.

[The next page is 31]

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

6.07 Terms of Office

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than twenty-five (25) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. 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])

6.07 TERMS OF OFFICE. Terms of City officers begin and end at noon on the first day of January which is not a Sunday or legal holiday, following a regular City election.

[The next page is 35]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Checks shall be signed by the City Manager and Deputy City Clerk, following Council approval, except as provided by subsection 5 hereof. One of the signatures must be an original signature. Should the position of City Manager or Deputy City Clerk become vacant, the Council shall, by resolution, authorize another official to sign checks until said vacancy may be filled.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods that are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.
4. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including (but not limited to) the design and production or manufacture of prototype products for experimental use and corporate research services that do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

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

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

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

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

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (30) days after such hearing, the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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

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

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

[The next page is 49]

CHAPTER 9

URBAN REVITALIZATION

EDITOR'S NOTE

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

ORDINANCE	ADOPTED	SUBJECT
802	12-11-01	Clarinda City-Wide Urban Revitalization District

o o o o o o o o o o

CHAPTER 10

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted and provide for Urban Renewal Areas in the City and remain in full force and effect, for division of tax levied on taxable property.		
ORDINANCE	ADOPTED	SUBJECT
809	11-19-02	Clarinda Urban Renewal Area No. 1

[The next page is 85]

CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (4) years.
(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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

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

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing

the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the Mayor Pro Tem and the Mayor also appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Low Rent Housing Agency Board of Commissioners
4. City Tree Board
5. Water Appeal Board

15.04 COMPENSATION. The salary of the Mayor is four hundred dollars (\$400.00) per month.

(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)

[The next page is 91]

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

o 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 (5) Council Members elected at large for overlapping terms of four (4) years.

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

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

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

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

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

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

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

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

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

5. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind or be obligatory upon the City unless 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 one hundred thousand dollars (\$100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.1[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 (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Manager
2. City Clerk
3. City Attorney
4. Fire Chief
5. Planning and Zoning Commission
6. Zoning Board of Adjustment
7. Building Board of Appeals

17.06 COMPENSATION. The salary of each Council member is twenty-five dollars (\$25.00) for each meeting of the Council attended, plus twenty-five dollars (\$25.00) for each committee meeting attended as Council member, up to a maximum of fifteen (15) committee meetings. Additional compensation for committee meetings requires approval of a majority vote of the Council.

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

[The next page is 101]

CHAPTER 18

CITY CLERK

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

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

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

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

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

18.03 PUBLICATION OF MINUTES. Within fifteen (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 (4) nor more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections and nominations 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 "SEAL" and around the margin of which are the words "CITY OF CLARINDA, 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
20.09 Representation of City Employees

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

(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])

20.09 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

CITY MANAGER

21.01 Appointment and Term
21.02 Compensation

21.03 Powers and Duties
21.04 Prohibited Acts

21.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Manager to serve at the discretion of the Council. Such appointment must be made on the basis of qualifications and not on the basis of political affiliation.

21.02 COMPENSATION. The City Manager shall receive such annual salary as the Council shall from time to time determine by resolution.

21.03 POWERS AND DUTIES. The City Manager shall exercise the following powers and duties:

1. City Law. Supervise enforcement and execution of the City laws.
2. Council Meetings. Attend all meeting of the Council.
3. Recommendations. Recommend to the Council any measures necessary or expedient for the good government and welfare of the City.
4. Supervision. Supervise the official conduct of all officers of the City appointed by the City Manager.
5. Contracts. Supervise the performance of all contracts for work done for the City, make all purchases of material and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.
6. Property and Improvements. Supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
7. Cooperation. Cooperate with any administrative agency or board of trustees.
8. Advise Council. Keep the Council fully advised of the financial and other conditions of the City, and of its future needs.
9. Budgets. Prepare and submit to the Council annually the required budgets.
10. Accounting. Conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
11. Employees. Employ, reclassify or discharge all employees subordinated by the Council or State law and fix their compensation, subject to Council-approved policies.
12. Investigative Authority. Investigate, summarily and without notice, the affairs and conduct of any department, agency, officer or employee under the supervision of the City Manager and compel the production of evidence and attendance of witnesses.

13. Other. Perform other duties at the Council's direction.

21.04 PROHIBITED ACTS. The City Manager shall not take part in any election for Council members, other than by casting a vote, and shall not appoint a Council member to City office or employment, nor shall a Council member accept such appointment.

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 Lied 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 six (6) resident members and three (3) 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 County. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

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

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the Library Director, 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 Library Director, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Library Director to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 24

HOSPITAL TRUSTEES

24.01 Trustees Elected
24.02 Organization
24.03 Treasurer
24.04 Compensation
24.05 Powers and Duties

24.06 Rules
24.07 Annual Report
24.08 Discrimination
24.09 Gifts
24.10 Depreciation Fund

24.01 TRUSTEES ELECTED. The Board of Hospital Trustees, hereinafter referred to as the Board, consists of five (5) members elected for overlapping terms of four (4) years.

(Code of Iowa, Sec. 392.6)

24.02 ORGANIZATION. The Trustees shall, within ten (10) days after their election, qualify by taking the oath of office, and organize as a Board by the election of one of their members as Chairperson and one as Secretary.

24.03 TREASURER. The Treasurer of the Board shall receive and disburse all funds under the control of the Board as ordered by it. (No bond shall be required.)

24.04 COMPENSATION. No Trustee shall receive any compensation for services performed, but may receive reimbursement for any cash expenses actually made for personal expenses incurred as a Trustee, but an itemized statement of all expenses and monies paid out shall be made under oath by each of the Trustees and filed with the Secretary and allowed only by the affirmative vote of the full Board.

24.05 POWERS AND DUTIES. The Board is granted all of the powers and duties necessary for the management, control and government of the City's hospital or health care facilities, specifically including but not limited to any applicable powers and duties granted boards of trustees under other provisions of the *Code of Iowa* relating to hospitals, nursing homes, and custodial homes, irrespective of the chapter of the *Code of Iowa* under which such institutions are established, organized, operated or maintained.

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

24.07 ANNUAL REPORT. The Board shall annually prepare a condensed statement of the total receipts and expenditures for the hospital or health care facility and cause the same to be published as required by law.

24.08 DISCRIMINATION. In the management of the hospital or health care facility, no discrimination shall be made against practitioners of any school of medicine recognized by the laws of the State.

24.09 GIFTS. As a part of the Board's authority, it may accept property by gift, devise, bequest or otherwise; and if the Board deems it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all members of the

Board, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

24.10 DEPRECIATION FUND. The Trustees may, in their discretion, establish a fund for depreciation as a separate fund. Said funds may be invested in United States government bonds and when so invested the accumulation of interest on the bonds so purchased shall be used for the purposes of the depreciation fund; an investment when so made shall remain in United States government bonds until such time as, in the judgment of the Board, it is deemed advisable to use the funds for hospital or health care facility purposes.

CHAPTER 25

CITY TREE BOARD

25.01 Tree Board Established
25.02 Compensation
25.03 Duties and Responsibilities

25.04 Operation
25.05 Interference with City Tree Board
25.06 Review by Council

25.01 TREE BOARD ESTABLISHED. There is hereby created and established a City Tree Board for the City, which consists of five (5) members, citizens and residents of the City appointed by the Mayor with the approval of the Council for staggered three-year terms. The Council shall appoint one of its members to serve as an ex-officio member of the City Tree Board. In the event that a vacancy occurs during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

25.02 COMPENSATION. Members of the Board shall serve without compensation.

25.03 DUTIES AND RESPONSIBILITIES. It is the responsibility of the Tree Board to study, investigate, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in the town square. Such plan will be presented to the Council and upon their acceptance and approval shall constitute the official comprehensive Town Square Tree Plan for the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon special matters or questions coming within the scope of its work. Trees in the parks and other public areas will be dealt with on an as-needed basis.

25.04 OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

25.05 INTERFERENCE WITH CITY TREE BOARD. It is unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or trees on private grounds.

25.06 REVIEW BY COUNCIL. The Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the Council, who may hear the matter and make final decision.

o o o o o o o o o o

CHAPTER 26

LOW RENT HOUSING AGENCY BOARD OF COMMISSIONERS

26.01 Establishment
26.02 Compensation

26.03 Duties and Responsibilities

26.01 ESTABLISHMENT. The Clarinda Low Rent Housing Agency Board of Commissioners consists of five (5) members appointed by the Mayor with the approval of the Council for staggered terms of five (5) years.

26.02 COMPENSATION. Members of the Board serve without compensation.

26.03 DUTIES AND RESPONSIBILITIES. The Board shall meet once a month on the first Monday of the month and shall exercise all powers of a municipal housing agency as provided in Section 403A.5 of the *Code of Iowa*.

[The next page is 145]

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

30.01 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 Police Chief shall select the other members of the department.
(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)

[The next page is 151]

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.09 Constitution
35.02 Composition	35.10 Reports to be Made by the City Manager
35.03 Training	35.11 Accidental Injury Insurance
35.04 Compensation	35.12 Liability Insurance
35.05 Fire Chief Appointed	35.13 Calls Outside Fire District
35.06 City Manager to Have General Supervisory Powers	35.14 Mutual Aid
35.07 Fire Chief: Duties	35.15 Authority to Cite Violations
35.08 Obedience to Fire Chief	

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

(Code of Iowa, Sec. 364.16)

35.02 COMPOSITION. The department consists of the Fire Chief, Assistant Fire Chief and not less than ten (10) additional members.

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

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

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

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

35.05 FIRE CHIEF APPOINTED. The Fire Chief shall be appointed by the Council, upon recommendation of the Fire Department, for a term of two (2) years.

35.06 CITY MANAGER TO HAVE GENERAL SUPERVISORY POWERS. The City Manager shall have general supervision over the Fire Department and shall recommend to the Council the appointment and removal of all the members and officers thereof and make all purchases necessary for the Fire Department, subject to the direction of the Council.

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, 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 City Manager an annual report of the status and activities of the department as well as such other reports as may be requested by the City Manager.

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

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 REPORTS TO BE MADE BY THE CITY MANAGER. The City Manager shall, at the end of each Council year, make a detailed report to the Council of the number of fires, property saved from destruction and condition of fire apparatus and also shall make such other reports and give such other information relating to fires and the Fire Department as may be called for from time to time by the Council.

35.11 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 injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All volunteer firefighters shall be covered by the contract.

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

35.12 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)

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

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

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

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

35.15 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 185]

CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

40.06 Amateur Fighting and Boxing

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
- B. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

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

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 AMATEUR FIGHTING AND BOXING. No holder of a liquor control license and/or wine or beer permit under Chapter 123 of the *Code of Iowa*, or the holder’s agents or employees, shall allow any boxing, wrestling, mixed martial arts fighting, extreme fighting, ultimate fighting, shoot fighting matches or other similar contests, events, or exhibitions to occur on the premises covered by the license and/or permit. However, matches, contests, events, or exhibitions licensed or otherwise sanctioned, controlled, or regulated by the State of Iowa, or any of its administrative or regulatory entities, or political subdivisions, including school districts, or by the Iowa High School Athletics Association or the Iowa Girls High

School Athletic Union, the National Collegiate Athletic Association, United States Olympic Committee, or other similar organization, or other events for which the sponsor, holder, or promoter has purchased and maintained general liability insurance in an amount no less than \$1 million, and participant insurance in an amount no less than \$50,000 per participant, and files a certificate of insurance of such coverage acceptable to the Clarinda Police Chief, at least 30 days prior to such event, shall not be prohibited by this section. Certificates of insurance may be filed with the Clarinda Police Chief. Failure to comply will result in the standard penalty defined in Section 1.14 of this Code of Ordinances.

[The next page is 193]

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

41.03 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, 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, 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 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)

41.08 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])

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

41.10 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.

41.11 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])

41.12 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.

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

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

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

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.

41.14 SMOKING PROHIBITED.

1. Definitions. As used in this section, unless the context otherwise requires:
 - A. “Enclosed area” means all space between a floor and a ceiling, which is contained on all sides by solid walls or windows, exclusive of doorways, and which extend from the floor to the ceiling.
 - B. “Outdoor area” means any public place or public area as defined in this section not meeting the definition of an enclosed area as used herein.
 - C. “Public place” or “public area” means either an enclosed area or outdoor area, whether owned by, leased to, dedicated to and accepted by, or under the control of the City, including (but not limited to) all City park facilities, recreational trails, athletic complexes or sports arenas, airport, cemeteries, and any parking areas or grounds located immediately adjacent to any of such places or used or operated by the City in connection with them,

except the right-of-way of all public streets or ways within the City, except when such streets or ways have been closed either temporarily or permanently.

D. “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product in any manner or in any form. Smoking does not include smoking that is associated with a recognized religious ceremony, ritual, or activity, including but not limited to the burning of incense.

E. “Athletic complex or sports arena” means an area, whether enclosed or outdoors, where members of the general public are permitted to assemble to engage in physical exercise, participate in athletic competition, or witness sporting or other events or performances, including (but not necessarily limited to) a sports field or fields, pavilion, stadium, gymnasium, swimming pool, skating or skateboarding park, and any area similarly used, whether known by one of these terms or not.

F. “Street right-of-way” 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 vehicle travel, including that portion thereof customarily referred to as the parking or parkway and sidewalk.

(Code of Iowa, Sec. 142D.2 and 321.1[78])

2. Smoking Prohibited. All public areas or public places of the City shall be considered smoke-free areas, and it is unlawful for smoking to occur in all such areas. The City shall cause a sign conforming to the provisions of Section 142D.6 of the *Code of Iowa* to be posted in the public area and at every entrance to it.

(Code of Iowa, Sec. 142D.5)

[The next page is 201]

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 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 105.08 – Littering Prohibited
 - B. Section 105.09 – Open Dumping 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 211]

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

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

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

substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

[The next page is 235]

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. 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.]*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
 - A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.
 - B. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. “Minor” means any unemancipated person under the age of eighteen (18) years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited

commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

G. “Unemancipated” means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 1:00 a.m. and 5:00 a.m.

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

A. The minor is accompanied by a responsible adult.

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

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

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

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

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

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

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

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

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

F. The minor’s business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time

periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

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

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

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

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

6. Penalties.

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

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

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.

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

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

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

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

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

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

[The next page is 265]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definitions

50.02 Public Nuisances Affecting Peace, Safety, and General Welfare Prohibited

50.03 Abatement Process; Purpose

50.04 Emergency Abatement Orders

50.05 Penalties

50.06 Procedures and Guidelines

50.01 DEFINITIONS.

1. “Front yard area” means all that area between the front property line and a line drawn along the front face or faces of the principal structure on the property and extended to the side property lines.
2. “Outside” means to be outside of an enclosed storage facility and visible from any other property, including public right-of-way.
3. “Side yard corner lots” means the yard area adjacent to the street right-of-way on a corner lot extending from the front yard along the side of the structure to the rear property line.
4. “Weeds” means, noxious or otherwise, untended vines, brush, and scrub bushes, grass and other similar vegetation.

50.02 PUBLIC NUISANCES AFFECTING PEACE, SAFETY, AND GENERAL WELFARE PROHIBITED. The following are declared to be nuisances affecting public peace, safety, and general welfare due to their being injurious to health, indecent or offensive to the senses, or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property.

1. **Obstructions of View.** All trees, hedges, signage, or other obstructions, whether natural or manmade, which prevent persons from having a clear view of all traffic approaching an intersection as defined in Section 321.1 of the *Code of Iowa*, or any successor provision thereto, and all trees, hedges, signage, or other obstructions located on City right-of-way, whether natural or manmade, which prevent persons using a private driveway or street from having a clear view of all traffic approaching on any public street, highway, alley or roadway.
2. **Junk, Etc.** The piling, storage, or keeping of junk, furniture, household furnishings or appliances, or component parts thereof, or other debris within the City.
3. **Throwing, Placing Items on Public Right-of-Ways.** The placing or throwing on any street, alley, road, highway, sidewalk, or other public property of any glass, tacks, nails, bottles, or any substances that may injure any person or animal or damage any pneumatic tire when passing over the same.
4. **Garbage, Trash, Etc.** The depositing of, maintaining, permitting, or failing to remove garbage, trash, rubbish, bottles, cans, or other refuse on any property within the City, including large quantities of organic debris and materials that accumulated by other than natural means, except neatly maintained compost piles.

5. 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.

A. Weeds and Growth to be Cut. All weeds growing on lots and parcels of ground within the City limits shall automatically be deemed a health, safety, and fire hazard upon reaching or exceeding the maximum vegetation height restriction as set forth below:

<u>Land Use</u>	<u>Maximum Vegetation Height</u>
Developed and Undeveloped Residential, Commercial and Industrial Zoned Areas	8 inches
Unplatted property and agriculture zoned property unless planted for farm cropping purposes.....	18 inches

B. Responsibility of Owners and Occupants. The property owners or occupants shall also be jointly or severally responsible for the cutting of such growths on the abutting space between the lot line and the curb line or edge of the traveled way within the street right-of-way, whether in front of or along the side of the lot or parcel of ground, and one-half of any alley abutting the property. The City Manager shall notify the property owners/occupants when the weeds are higher than the limits set out in this section. If the weeds are not cut within seven (7) days, then the City will have the option to issue a municipal infraction and/or have the weeds or growth cut and assess the cost to be collected with the property taxes.

C. Waiver for Weeds and Growth to be Cut. The property owners or occupants of tracts of land within the City may allow vegetation to extend beyond the maximum vegetation heights set out in this section, so long as all of the conditions specified below are fulfilled.

(1) The tract or portion thereof shall be designated by the City Manager as a natural area, considering the following factors: grade, incline, the difficulty to control or maintain said tract, the character of the surrounding area, and whether said tract is being maintained as either a soil erosion control area or a conservation area. The owner or occupant of said tract shall apply in writing to the City Manager for such natural area designation; and

(2) A buffer 30 feet in width on all sides of such natural area adjacent to developed properties or public right-of-way shall be mowed to the height required in this section; and

(3) The tract shall contain no “noxious weeds” as defined in Section 317.1A of the *Code of Iowa*.

Subsequent failure of any one or more of the foregoing conditions shall void the waiver issued hereunder and immediately subject the property and property owners to the remedies provided for the abatement of nuisances under this Code of Ordinances and the *Code of Iowa*.

6. Wood Piles. The accumulation of any piles of wood that are not neatly stacked, or secured in a stable manner to avoid collapse.

7. Mail and Newsprint Receptacles. The placement of mail boxes and other newsprint receptacles on public right-of-way, except those that are in compliance

with United States Postal Service requirements for location and type and on a common post.

8. Dumping of Snow. Throwing, pushing, or placing (or causing to be thrown, pushed, or placed) any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street 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 streets temporarily. Such accumulation shall be removed promptly by the property owner or the property owner's agent, and only after making arrangements for such prompt removal (at the owner's cost) of the accumulation within a reasonably short time. When accumulations of two inches or more occur, snow from sidewalks in the central business district may be deposited in the street, adjacent to the curb, as long as it is done in a timely manner to be removed by the normal City snow removal operations.

9. Snipe Signs. Posting or failing to remove a snipe sign. A snipe sign is any sign or poster affixed in any manner to a tree, fence, utility pole, building, or any similar object on public property, which sign or poster is not otherwise permitted. The City Manager is authorized to remove any snipe sign and if no one comes forward to claim the sign within seven (7) days after its removal, the City is authorized to dispose of the snipe sign. This subsection is adopted in order to alleviate existing problems with signs, which include, among others, an overabundance of signs causing clutter and visual pollution, a number of abandoned, deteriorated, and/or unsafe signs, and signs that distract, confuse, obscure, compete, and conflict with a motorist's vision.

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

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

12. Water Pollution. The 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.

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

14. Billboards. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view on 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.

15. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing 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.

16. Storing of Inflammable Junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, boxes and paper, by dealers in such articles, unless it is in a building of fireproof construction.

17. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of opium or hashish or other illegal substances, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

A violation of any of the above nuisances shall be considered, processed, and if unresolved be considered a municipal infraction.

50.03 ABATEMENT PROCESS; PURPOSE. The City has adopted the abatement process in order to allow the City and its residents to resolve City nuisances without penalty to the resident. This chapter will allow City residents a reasonable period of time to abate the nuisance before a municipal infraction citation is issued.

1. Responsibilities of City Manager. The responsibilities of the City Manager include making decisions on conditions of abating violations of this chapter.

2. Priority Enforcement. The City Manager shall have the authority to establish priorities for the abatement of nuisance violations and implement appropriate procedures to abate each category of violations so established. The procedures established shall be accomplished in accordance with Section 50.04(2), as amended.

3. Right of Entry. The City Manager shall have the right to enter upon any property at any reasonable time for the purpose of carrying out duties in the enforcement of abatement violations. In the event that the owner of the property located within the City refuses to permit entry to the City Manager, the City Manager may seek an entry warrant from the District Court. Any entry warrant issued shall command such owner or occupant to permit entry to the City Manager.

4. Remedies. The City Manager shall have, but not by the way of limitation, the following remedies available with respect to the abatement of nuisance violations:

A. No Action. After careful consideration of the facts and circumstances, the City Manager may authorize no action to be taken on a complaint of an alleged nuisance violation.

B. Warning and Order to Abate. If upon investigation of an alleged nuisance the City Manager has reason to believe that a nuisance exists, the City Manager shall issue the violator a Warning and Order to Abate. The Warning and Order to Abate shall allow the violator a specified period of time to abate the nuisance without penalty. The Warning and Order to Abate and the time specified to abate the nuisance shall be established pursuant to the requirements of Section 50.04(2), as amended.

C. Summary Abatement. Upon the advice of the City Attorney, the City Manager shall have the power to authorize summary abatement of a violation which creates an imminent hazard to public health, safety and welfare.

D. Additional Remedies. Remedies provided in this subsection shall be cumulative and in addition to any other remedies which may be available to the City Manager. Nothing contained herein shall be construed to preclude the City Manager from seeking other such remedies in addition to, or in lieu

thereof, the remedies herein granted, such as issuing a municipal infraction citation.

E. Request for Hearing. Any person ordered to abate a nuisance or any person interested therein may have a hearing with the City Council as to whether a nuisance exists or on a request for an extension of time in which to abate a nuisance. A request for a hearing must be made in writing and delivered to the City Council within the time stated in the order to abate, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The City Council shall set a hearing date and provide notice to the person appealing from the order to abate. At the conclusion of the hearing, the City Council shall render a written decision as to whether or not a nuisance exists. If the City Council finds that a nuisance exists, it shall order the nuisance abated within an additional time that is reasonable under the circumstances. The findings of the City Council shall be the final decision on the matter.

50.04 EMERGENCY ABATEMENT ORDERS.

1. Issuing Order of Emergency. Whenever the City Manager deems that an emergency exists which threatens life or property and requires immediate action to protect the public health, safety and welfare, the City Manager may, without prior notice or hearing, issue an order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this chapter to the contrary, such order shall be effective immediately.

2. Failure to Comply with Emergency Order. It is unlawful for any person to whom such an emergency order is issued to fail to comply therewith immediately. In the event that such person to whom the emergency order was issued fails or refuses to immediately comply therewith, the City Manager may request, without prior notice to the owner, occupant, or agent of the owner, that the dangerous condition be removed, corrected, or otherwise abated to such an extent that it is no longer an imminent hazard to the public health, safety and welfare.

3. Costs of Removal To Be Assessed Against Property. All nuisance violations affect the peace, safety, and general welfare of the citizens of Clarinda. Property owners who remain in violation after notice by the City pursuant to the time limits specified by the City Manager shall have the violation removed or abated by the City, and if not collected by the City Manager's office within 60-90 days shall have the cost of removal or abatement certified to the County Treasurer as a tax against the property.

50.05 PENALTIES. Failure to abide by the Warning and Order to Abate as set forth in 50.03(4)(B) within the specified period of time or failure to comply with the Emergency Order as set forth in Section 50.04, as amended, shall be a municipal infraction as established in Section 4.01 of this Code of Ordinances and shall subject the violator to the schedule of penalties as established in 4.03 of this Code of Ordinances.

50.06 PROCEDURES AND GUIDELINES. The City Manager shall be empowered to promulgate procedures and guidelines to accomplish the purposes of this chapter.

[The next page is 275]

CHAPTER 51

JUNK VEHICLES AND JUNK MACHINERY

51.01 Definitions

51.03 Remedies

51.02 Vehicles and Machinery Constituting a Public Nuisance

51.01 DEFINITIONS. For purposes of this chapter, the following words are defined:

1. “Inoperable condition” means that the vehicle has no substantial potential use consistent with its usual function, and includes a vehicle which: (i) has a missing or defective part that is necessary for the normal operation of the vehicle; (ii) is stored on blocks, jacks, or other supports; or (iii) has not had a current vehicle license for at least three months.

2. “Junk machinery” means any piece of machinery stored within the corporate limits of the City which is in an inoperable condition or which, because of any one of the characteristics listed in paragraph A through E in subsection 3 of this section, constitutes a threat to the public health and safety (unless such machinery is kept in an enclosed garage or storage building or at a lawfully operated auto salvage or junk yard).

3. “Junk vehicle” means any motor vehicle stored within the corporate limits of the City, not licensed for the current year as required by law or which is in an inoperable condition, or which, because of any of the following characteristics, constitutes a threat to the public health and safety (unless such vehicle is kept in an enclosed garage or storage building or at a lawfully operated auto salvage or junk yard):

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

B. Broken or Loose Part. Any vehicle or machinery with a broken or loose fender, door, bumper, hood, hood ornament, door handle, window handle, running board, steering wheel, truck top, trunk handle, radio aerial, tail pipe or decorative piece.

C. Habitat for Nuisance Animals or Insects. Any vehicle or piece of machinery which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

D. Flammable Fuel. Any vehicle or machinery which contains gasoline or any other flammable fuel.

E. Defective or Obsolete Condition. Any other vehicle or piece of machinery which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

F. Salvage. Any other vehicle or piece of machinery which is used for sale of parts or as a source of repair or replacement parts for other vehicles or machinery or which is kept for scrapping, dismantling, or salvage of any kind.

4. "Motor vehicle" or "vehicle" has the meaning contained in Chapter 321.1 of the *Code of Iowa*.
5. "Vital component parts" means those parts of the motor vehicle which are essential to the mechanical functioning of the vehicle, including (but not limited to) the motor, drive train, and wheels.

51.02 VEHICLES AND MACHINERY CONSTITUTING A PUBLIC NUISANCE.

Junk vehicles and junk machinery are declared to be a public nuisance creating hazard to the health and safety of the public because they invite plundering, create fire hazards, attract vermin, and present physical dangers to the safety and well-being of children and other citizens. The accumulation and outside storage of such vehicles and machinery is in the nature of rubbish, litter, and unsightly debris and is a blight on the landscape and a detriment to the environment.

1. Storage within the corporate limits of a junk motor vehicle or junk machinery upon private property owned or controlled by the owner of the vehicle or machinery, unless excepted by definition, constitutes a threat to the health and safety of the citizens and is a nuisance. If any junk motor vehicle or machinery is stored upon private property in violation hereof, the owner or person in control of the property upon which it is stored shall be prima facie liable for said violation.
2. Any vehicle, whether occupied or not, which is found stopped or parked in violation of any ordinance or State statute, or which is reported stolen, or which is impeding firefighting, snow removal or plowing or the orderly flow of traffic, is declared to be a public nuisance.

A conviction that a nuisance exists under any of the provisions of this chapter shall be punished as a municipal infraction.

51.03 REMEDIES. Upon discovery of any junk vehicle or junk machinery located upon private property in violation of Section 51.02, the City shall have available, but not by the way of limitation, the remedies outlined in Chapter 50 with respect to the abatement of such nuisance violations:

[The next page is 301]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.13 Impounding Costs
55.02 Animal Neglect	55.14 Vicious Animals or Potentially Dangerous Animals Prohibited
55.03 Livestock Neglect	55.15 Confinement
55.04 Abandonment of Cats and Dogs	55.16 Liability
55.05 Livestock	55.17 Commercial Kennels Restricted
55.06 At Large Prohibited	55.18 Animal Relinquishment
55.07 Damage or Interference	55.19 Animal Adoption
55.08 Annoyance or Disturbance	55.20 Pet Awards Prohibited
55.09 At Large: Impoundment	55.21 Sanitation
55.10 Impoundment – General	55.22 Total Number of Animals Allowed
55.11 Interference Prohibited	
55.12 Disposition of Animals	

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

1. “Advertise” means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. “Animal” means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. “At large” 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.
4. “Business” means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. “Fair” means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
7. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(Code of Iowa, Sec. 717.1)

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

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

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

55.03 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

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

55.07 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

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

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

55.10 IMPOUNDMENT - GENERAL. It is lawful for the animal control officer, all police officers and City employees to impound any dog that is not wearing a dog tag as herein provided and any dog which they reasonably feel to be in violation of any of the provisions of

this chapter, whether such dog is wearing a dog tag or not. It is lawful for the animal control officer or any police officer to go upon private property for the purpose of catching any dog to be impounded.

55.11 INTERFERENCE PROHIBITED. It is unlawful for any person to interfere with, molest, hinder or obstruct the animal control officer, any police officer or City employee in the discharge of their official duties under this chapter.

55.12 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated and/or unlicensed dog or cat, by having it immediately vaccinated and/or licensed. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.4i)

55.13 IMPOUNDING COSTS. Impounding fees for licensed animals are twenty-five dollars (\$25.00) for the first impoundment of any calendar year and fifty dollars (\$50.00) for the second and one hundred dollars (\$100.00) for the third and successive impoundments of the same animal during any calendar year. Impounding fees for unlicensed animals are sixty dollars (\$60.00) for the first impoundment of any calendar year and one hundred dollars (\$100.00) for the second and successive impoundments of the same animal during any calendar year. In addition to impounding fees, boarding costs for licensed and unlicensed animals are ten dollars (\$10.00) for the first day and five dollars (\$5.00) per day for every day or any part of a day thereafter.

(Code of Iowa, Sec. 351.41)

55.14 VICIOUS ANIMALS OR POTENTIALLY DANGEROUS ANIMALS PROHIBITED. No person shall own, keep, possess or harbor a vicious animal or potentially dangerous animal within the City. For the purpose of this section, a "vicious animal" is an animal that when unprovoked bites or attacks human beings or other animals either on public or private property or in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public ground or place. For the purposes of this section, a "potentially dangerous animal" is an animal that when unprovoked chases or approaches a person upon the streets, sidewalks or any public or private property in menacing fashion or apparent attitude of attack or an animal with a propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals. Any animal owned or harbored for the purpose of professional animal fighting or trained for fighting is considered a vicious animal. It is the duty of the animal control officer, all police officers and City employees to take up and impound any animal which is a vicious animal or a potentially dangerous animal. In the event a vicious animal or potentially dangerous animal cannot be taken up and caught by the animal control officer or police officer or City employee without such animal control officer or police officer or City employee being exposed to danger of personal injury from such animal, it is lawful for the animal control officer or police officer to forthwith destroy such animal without notice to the owner, keeper or possessor thereof.

55.15 CONFINEMENT. The owner, possessor or keeper of any dog or cat which has bitten or which is suspected of having bitten any person or which is suspected of having rabies shall immediately notify the animal control officer, any police officer or City Manager of such fact. Any dog or cat which has bitten or which is suspected to have bitten any person or which is believed to have rabies or to have been exposed to rabies shall be confined, upon order of the animal control officer or any police officer, for a period of two (2) weeks for observation. Such dog or cat shall either be confined at the residence of the owner, possessor or keeper thereof, if such confinement can be accomplished without exposing such dog or cat to the public or, at the option of the animal control officer or any police officer, such dog or cat shall be confined at the City pound or at a private veterinary hospital at the expense of the owner, possessor or keeper of such dog or cat to prevent such dog or cat during confinement from coming into contact with the public.

55.16 LIABILITY. For the purpose of prosecution for violations of this chapter, it shall not be necessary in order to obtain a conviction to prove notice of knowledge on the part of the owner, possessor or keeper of the dog or cat in question that such dog or cat was violating any of the provisions of this chapter at the time and place charged, it being the purpose and intent of this section to impose strict liability upon the owner, possessor or keeper of any dog or cat for the actions, conduct and condition of such dog or cat.

55.17 COMMERCIAL KENNELS RESTRICTED. No person shall operate, maintain or keep dogs in a kennel, run or fenced-in area in any residential zoning district for the purpose of a commercial business of raising and selling such dogs. Such business shall be limited to a commercial district after necessary license and permits have been obtained for such business. Dog runs or pens located in residential districts shall be for the sole purpose of containing pets with the regulation of quiet and sanitary enjoyment of the public at large protected by other sections of this chapter.

55.18 ANIMAL RELINQUISHMENT. Any owner of a dog or cat wishing to relinquish said dog or cat to the City Animal Control Department may do so after first paying a fee of fifteen dollars (\$15.00) to the City and providing all information as required by the City Animal Control Department pertaining to said dog or cat.

55.19 ANIMAL ADOPTION. Any person wishing to adopt any dog or cat from the City must first pay an adoption fee of twenty dollars (\$20.00), and where required, have said animal inoculated against rabies, purchase the required licenses, and provide the City with all adoption information as required by the City's Animal Control Department.

55.20 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

- D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
- A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.21 SANITATION. It is unlawful for any owner, keeper, or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper, or walker does not immediately thereafter remove and/or clean up said animal's feces from the public or private property. It is the duty of each person in control of any animal to be in possession of materials to remove feces left by an animal. In addition, it is unlawful for the owner or person in charge of any dog, cat, or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. Failure to comply will result in the standard penalty defined in Section 1.14 of this Code of Ordinances.

55.22 TOTAL NUMBER OF ANIMALS ALLOWED. No person or household shall own or harbor more than four dogs or cats over four months of age.

[The next page is 311]

CHAPTER 56

DOG AND CAT LICENSES REQUIRED

56.01 License Required
56.02 License Fees
56.03 Issuance of License
56.04 License Tags

56.05 Immunization
56.06 Enforcement
56.07 Kennel Dogs

56.01 LICENSE REQUIRED. Every owner of a dog or cat over the age of six (6) months shall procure a license from the City. Each license issued is effective for a three-year period.

56.02 LICENSE FEES. The license fee is ten dollars (\$10.00) for every neutered male dog or cat and for every spayed female dog or cat and twenty dollars (\$20.00) for every dog or cat which has not been neutered or spayed.

56.03 ISSUANCE OF LICENSE. Upon payment of the license fee, the City shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog or cat for which the license is issued. The City shall keep a duplicate record of each license issued as a public record.

56.04 LICENSE TAGS. Upon issuance of the license, the City shall deliver to the owner a tag stamped with the number of the license. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn by the dog or cat for which issued at all times when such animal is not confined within a building or other secure structure.

56.05 IMMUNIZATION. All dogs and cats six (6) months or older shall be vaccinated against rabies. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the cat or 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 license. A tag showing evidence of proper vaccination shall at all times be worn by every cat or dog when not confined.

56.06 ENFORCEMENT. Veterinarians shall in no way be responsible for the enforcement of the required licensing. Enforcement of this chapter shall be the responsibility of the City Animal Control Department. Only those persons who own, possess or keep a dog or cat duly licensed and inoculated in accordance with the provisions of this chapter shall be permitted to possess a dog or cat tag as herein provided.

56.07 KENNEL DOGS. Kennel dogs 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 325]

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 "Clarinda Traffic Code."

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Police Chief. 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.

o o o o o o o o o o

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The City Manager shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The City Manager shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The City Manager is hereby authorized, subject to approval of the Council by resolution, 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)

61.03 TRAFFIC LANES. The City Manager is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

61.04 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)

61.05 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)

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 Disturbing Peace

62.08 Compression Brakes

62.01 VIOLATION OF REGULATIONS. Any person who willfully fails or refuses to comply with any lawful order of a peace officer or direction of a Fire Department officer during a fire, or who fails to abide by the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this section. These sections of the *Code of Iowa* are adopted by reference and are as follows:

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; 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 – Radar 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 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.
154. Section 321.460 – Spilling loads on highways.
155. Section 321.461 – Trailers and towed vehicles.
156. Section 321.462 – Drawbars and safety chains.
157. Section 321.463 – Maximum gross weight.
158. Section 321.465 – Weighing vehicles and removal of excess.
159. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. The Police Chief shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. 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 DISTURBING PEACE. It is unlawful for any person operating a motor vehicle to disturb the public peace and quiet by squealing the tires of a motor vehicle during rapid

acceleration or deceleration or otherwise causing the tires of a motor vehicle to emit loud or offensive noises or sound, racing or gunning the motor of a motor vehicle, honking of the horn of a motor vehicle or by any noise which is unnecessary to the normal and/or safe operation of a motor vehicle.

62.08 COMPRESSION BRAKES. It is unlawful for any person in any part of the City to make or cause to be made loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any vehicle. The City shall cause notices to be posted or signs to be erected indicating such prohibition.

[The next page is 341]

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

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

63.04 SPECIAL SPEED RESTRICTIONS. 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 twenty-five (25) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
 - A. Essie Davison Drive.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
 - A. U.S. No. 71 northbound from LaPerla Drive to Logan Street.
 - B. Washington Street from 1st Street to 12th Street.

- C. 1st Street from Washington Street to City limits.
 - D. East State Street from North 1st Street to North 5th Street.
 - E. North 12th Street from GPS Coordinate Point N 40 degrees 44 minutes 49.3 seconds, W 95 degrees 1 minute 57.1 seconds to the 12th street entrance to the Clarinda Treatment Complex (GPS Coordinate Point N 40 degrees 45 minutes 25.3 seconds, W 95 degrees 1 minute 57.9 seconds).
3. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
- A. Highway 2 & 71 Bypass from 50 feet east of 22nd Street to Schenck's Road.
4. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour shall be unlawful on any of the following designated streets or parts thereof.
- A. Highway 2 & 71 Bypass from West State Street to fifty (50) feet east of 22nd Street.

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 345]

CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns

64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

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

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

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

o o o o o o o o o o

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Yield Required
65.05 School Stops

65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks
65.09 Official Traffic Controls

65.01 THROUGH STREETS - STOP. Every driver of a vehicle shall stop, unless a yield is permitted by this chapter, before entering an intersection with the following designated through streets.

(Code of Iowa, Sec. 321.345)

1. East Washington Street from 15th Street to Highway 71.
2. 16th Street from Main Street to Garfield Street.
3. 16th Street from Garfield Street to City Limits South.
4. Garfield Street from 14th Street to 7th Street.
5. 16th Street from Washington Street to State Street.
6. 16th Street from State Street to Oak Street.
7. 12th Street from Washington Street to Nodaway Street.
8. 12th Street from Nodaway Street to North City Limits.
9. State Street from 16th Street to West City Limits.
10. LaPerla Drive from 8th Street to 16th Street.

65.02 STOP REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. Nishna Street. Vehicles traveling on Nishna Street shall stop at 15th Street.
2. 15th Street. Vehicles traveling on 15th Street shall stop at State Street.
3. 14th Street. Vehicles traveling on 14th Street shall stop at State Street.
4. 8th Street. Vehicles traveling on 8th Street shall stop at State Street.
5. Lincoln Street. Vehicles traveling on Lincoln Street shall stop at 6th Street.
6. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at 15th Street.
7. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at 12th Street.
8. 17th Street. Vehicles traveling on 17th Street shall stop at Stuart Street.
9. Stuart Street. Vehicles traveling on Stuart Street shall stop at 15th Street.

10. Stuart Street. Vehicles traveling on Stuart Street shall stop at 14th Street.
11. 20th Street. Vehicles traveling on 20th Street shall stop at Garfield Street.
12. 15th Street. Vehicles traveling on 15th Street shall stop at Garfield Street.
13. Logan Street. Vehicles traveling on Logan Street shall stop at 18th Street.
14. Logan Street. Vehicles traveling on Logan Street shall stop at 14th Street.
15. Cross Street. Vehicles traveling on Cross Street shall stop at 8th Street.
16. Willow Street. Vehicles traveling on Willow Street shall stop at 14th Street.
17. 10th Street. Vehicles traveling on 10th Street shall stop at Glenn Miller Drive.
18. 12th Street. Vehicles traveling on 12th Street shall stop at Glenn Miller Drive.
19. Glenn Miller Drive. Vehicles traveling on Glenn Miller Drive shall stop at 8th Street.
20. 20th Street. Vehicles traveling on 20th Street shall stop at Orange Street.
21. 22nd Street. Vehicles traveling on 22nd Street shall stop at Highway 2 and 71 Bypass.
22. 20th Street. Vehicles traveling on 20th Street shall stop at Highway 2 and 71 Bypass.
23. 12th Street. Vehicles traveling on 12th Street shall stop at Highway 2 and 71 Bypass.
24. 8th Street. Vehicles traveling on 8th Street shall stop at Highway 2 and 71 Bypass.
25. Schenck's Road. Vehicles traveling on Schenck's Road shall stop at Highway 2 and 71 Bypass.
26. 14th Street. Vehicles traveling on 14th Street shall stop at LaPerla Drive.
27. Page Street. Vehicles traveling on Page Street shall stop at 15th Street.
28. Cardinal Drive. Vehicles traveling on Cardinal Drive shall stop at Garfield Street.
29. Towerwood Court. Vehicles traveling on Towerwood Court shall stop at Cardinal Drive.
30. Cardinal Court. Vehicles traveling on Cardinal Court shall stop at Cardinal Drive.
31. State Street. Vehicles traveling on State Street shall stop at 1st Street.
32. 6th Street. Vehicles traveling on 6th Street shall stop at State Street.
33. State Street. Vehicles traveling on State Street shall stop at 16th Street.
34. Washington Court. Vehicles traveling on Washington Court Street shall stop at 21st Street.
35. 20th Street. Vehicles traveling on 20th Street shall stop at Nishna Street.
36. 20th Street. Vehicles traveling on 20th Street shall stop at Tarkio Street.

37. Tarkio Street. Vehicles traveling on Tarkio Street shall stop at 20th Street.
38. 20th Street. Vehicles traveling on 20th Street shall stop at Clark Street.
39. Logan Street. Vehicles traveling on Logan Street shall stop at 12th Street.
40. Stuart Street. Vehicles traveling on Stuart Street shall stop at 6th Street.
41. 8th Street. Vehicles traveling on 8th Street shall stop at Main Street.
42. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at 6th Street.
43. Schenck's Road. Vehicles traveling on Schenck's Road and South 4th Street shall stop at Garfield Street.
44. 19th Street. Vehicles traveling on 19th Street shall stop at Grant Street.
45. Main Street. Vehicles traveling on Main Street shall stop at 18th Street.
46. Page Street. Vehicles traveling on Page Street shall stop at 12th Street.
47. 6th Street. Vehicles traveling on 6th Street shall stop at Garfield Street.
48. 12th Street. Vehicles traveling on 12th Street shall stop at LaPerla Street.
49. Lincoln Street. Vehicles traveling on Lincoln Street shall stop at 8th Street.
50. Main Street. Vehicles traveling on Main Street shall stop at 6th Street.
51. 15th Street. Vehicles traveling on 15th Street shall stop at LaPerla Street.
52. 18th Street. Vehicles traveling on 18th Street shall stop at Garfield Street.
53. Boundary Street. Vehicles traveling on Boundary Street shall stop at Glenn Miller Drive.
54. Country Club Drive. Vehicles traveling on Country Club Drive shall stop at Walnut Street.
55. 22nd Street. Vehicles traveling on 22nd Street shall stop at Main Street.
56. 19th Street. Vehicles traveling on 19th Street shall stop at Main Street.
57. 14th Street. Vehicles traveling on 14th Street shall stop at Garfield Street.
58. 18th Street. Vehicles traveling on 18th Street shall stop at Clark Street.
59. 13th Street. Vehicles traveling on 13th Street shall stop at Main Street.
60. 12th Street. Vehicles traveling on 12th Street shall stop at Main Street.
61. Essie Davison Drive. Vehicles traveling on Essie Davison Drive shall stop at Highway 71.
62. Essie Davison Drive. Vehicles traveling on Essie Davison Drive shall stop at LaPerla Street.
63. Orange Street. Vehicles traveling on Orange Street shall stop at 18th Street.
64. Main Street. Vehicles traveling west on Main Street shall stop at 8th Street.
65. 5th Street. Vehicles traveling on 5th Street shall stop at State Street.
66. 9th Street. Vehicles traveling on 9th Street shall stop at State Street.
67. 10th Street. Vehicles traveling on 10th Street shall stop at State Street.

68. 11th Street. Vehicles traveling on 11th Street shall stop at State Street.
69. 13th Street. Vehicles traveling on 13th Street shall stop at State Street.
70. LaPerla Street. Vehicles traveling on LaPerla Street shall stop at 20th Street.

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of 9th Street and Main Street.
2. Intersection of 12th Street and Nodaway Street.
3. Intersection of 22nd Street and Tarkio Street.
4. Intersection of 15th Street and Main Street.
5. Intersection of Cardinal Drive and Main Street.
6. Intersection of 15th Street and Washington Street.
7. Intersection of 16th Street and Highway 2 bypass.

65.04 YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. 14th Street. Vehicles traveling on 14th Street shall yield at Main Street.
2. 11th Street. Vehicles traveling on 11th Street shall yield at Main Street.
3. Main Street. Vehicles traveling on Main Street shall yield at 18th Street.
4. 21st Street. Vehicles traveling on 21st Street shall yield at Main Street.
5. Stuart Street. Vehicles traveling on Stuart Street shall yield at 18th Street.
6. Grant Street. Vehicles traveling on Grant Street shall yield at 18th Street.
7. 18th Street. Vehicles traveling on 18th Street shall yield at Willow Street.
8. Division Street. Vehicles traveling on Division Street shall yield at 18th Street.
9. Division Street. Vehicles traveling on Division Street shall yield at 17th Street.
10. Grant Street. Vehicles traveling on Grant Street shall yield at 13th Street.
11. Grant Street. Vehicles traveling on Grant Street shall yield at 12th Street.
12. Washington Street. Vehicles traveling on Washington Street shall yield at 18th Street.
13. Chestnut Street. Vehicles traveling on Chestnut Street shall yield at 18th Street.
14. Lincoln Street. Vehicles traveling on Lincoln Street shall yield at 18th Street.
15. 19th Street. Vehicles traveling on 19th Street shall yield at Lincoln Street.
16. 18th Street. Vehicles traveling on 18th Street shall yield at Nodaway Street.

17. Willow Street. Vehicles traveling on Willow Street shall yield at 20th Street.
18. Stuart Street. Vehicles traveling on Stuart Street shall yield at 9th Street.
19. 17th Street. Vehicles traveling on 17th Street shall yield at Washington Street.

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

(Code of Iowa, Sec. 321.249)

1. Intersection of 16th Street and Wells Street.

65.06 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)

65.07 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.

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

(Code of Iowa, Sec. 321.327)

65.09 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. Intersection of 16th Street and Washington Street.
2. Intersection of 16th Street and Main Street.
3. Intersection of 16th Street and Garfield Street.

[The next page is 361]

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

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

(Code of Iowa, Sec. 321.471 & 472)

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

(Code of Iowa, Sec. 321.473 & 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 following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

1. 22nd Street. 3-ton limit from Orange Street to Bypass.
2. Boundary Street. 3-ton limit from 16th Street to 22nd Street.
3. Glenn Miller Drive. 16-ton limit from 16th Street East on Glenn Miller Drive to 10th Street.

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 City Manager may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

o o o o o o o o o o

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. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

1. Orange Street is eastbound from 16th Street to 15th Street.
2. Wells Street is eastbound from 16th Street to 15th Street.
3. 15th Street is northbound from Orange Street to Division Street.

o o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.10 No Parking 8:00 a.m. to 6:00 p.m.
69.02 Park Adjacent to Curb - One-Way Street	69.11 No Parking 7:30 a.m. to 5:00 p.m. Monday-Friday Excluding Holidays
69.03 Angle Parking	69.12 Loading Zones
69.04 Angle Parking – Manner	69.13 Snow Removal
69.05 Parking for Certain Purposes Illegal	69.14 Fire Lanes
69.06 Parking Prohibited	69.15 Controlled Access Facilities
69.07 Persons With Disabilities Parking	69.16 Parking on Private Property
69.08 No Parking Zones	
69.09 Truck Parking Limited	

69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

69.02 PARK ADJACENT TO CURB - ONE-WAY STREET. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. 16th Street on both sides from Main Street to Lincoln Street.
2. 15th Street on the west side from Stuart Street to Washington Street.
3. 15th Street on the east side from Main Street to Chestnut Street.
4. Washington Street on the south side from 14th Street to the alley west of 16th Street.
5. Washington Street on the north side from 15th Street to 16th Street.
6. Main Street on the north side from 15th Street to 16th Street.
7. Main Street on the south side from 14th Street to 16th Street.
8. 16th Street on the west side from Main Street south to alley.

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when

parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall stop, stand or park a vehicle within an alley, except to provide services or delivery goods or in compliance with the direction of a peace officer. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa

Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

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

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

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

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

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

1. 15th Street on the west side from Chestnut Street to Nishna Street.
2. 16th Street on the east side from State Street to Walnut Street.
3. Nishna Street on the north side from 12th Street to 22nd Street.
4. Washington Street on both sides from 13th Street east to the City limits.
5. 16th Street on both sides from Nishna Street to Walnut Street.
6. West Lincoln Street on the south side between 20th Street and 21st Street.
7. East Nodaway Street on the north side from North 16th Street east one-half block.
8. South 18th Street on the west side from Division Street to Boundary Street.
9. East Logan Street on the north side from 16th Street to 14th Street.
10. North 6th Street on the west side between Washington Street and Main Street.
11. North 6th Street on the east side between Washington Street and State Street.
12. 9th Street on the east side between Garfield Street and State Street.

13. State Street on the north side between 9th Street and 10th Street.
14. North 10th Street on the east side between State Street and Tarkio Street.
15. East Tarkio Street on the south side between 12th Street and 10th Street.
16. 12th Street on the west side between Nishna Street and Garfield Street.
17. Lincoln Street on the south side between 13th Street and 12th Street.
18. North 13th Street on the west side between State Street and Lincoln Street.
19. 14th Street on the west side between Nishna Street and Division Street.
20. 13th Street on the east side between Nodaway Street and Nishna Street.
21. Tarkio Street on the north side between 12th Street and 18th Street.
22. Tarkio Street on the south side between 19th Street and 18th Street.
23. Nodaway Street on the south side between 19th Street and 16th Street.
24. State Street on the north side between 12th Street and 16th Street.
25. Chestnut Street on the south side between 15th Street and 12th Street.
26. 17th Street on the east side from Garfield Street to Nishna Street.
27. 18th Street on the west side from Tarkio Street to State Street.
28. 20th Street on the east side from Nishna Street to Scidmore Street.
29. 20th Street on the west side from Nodaway Street to State Street.
30. Lincoln Street on the south side from 20th Street to 18th Street.
31. Chestnut Street on the south side from 19th Street to 17th Street.
32. 18th Street on the east side from Lincoln Street to State Street.
33. 19th Street on the west side from State Street to Stuart Street.
34. 20th Street on the east side from Main Street to Lincoln Street.
35. Washington Street on the south side from 20th Street to 19th Street.
36. West Main Street on the north side from 18th Street to Cardinal Drive.
37. Stuart Street on the north side from 16th Street to 22nd Street.
38. 18th Street on the east side from Division Street to Grant Street.
39. 19th Street on the west side from Division Street to Orange Street.
40. Division Street on the south side from 19th Street to 13th Street.
41. 20th Street on the east side from Willow Street to Garfield Street.
42. West Main Street on both sides from 17th Street to 18th Street.
43. Logan Street on the north side from 16th Street to 20th Street.
44. Orange Street on the north side from 17th Street to 18th Street.
45. Clark Street on the north side from 16th Street to 23rd Street.
46. 15th Street on the east side from Garfield Street to Grant Street.

47. 16th Street on both sides from Garfield Street to Grant Street.
48. Wells Street on the north side from 15th Street to 17th Street.
49. 13th Street on the west side from Grant Street to Garfield Street.
50. 11th Street on the west side from Stuart Street to Grant Street.
51. 8th Street on both sides from Garfield Street to the Bypass.
52. 14th Street on the west side from LaPerla Drive to dead end of 14th Street.
53. LaPerla Drive on the north side from 8th Street to 16th Street.
54. 19th Street on the west side from Nishna Street to Stuart Street.
55. 1st Street on the east side from Washington Street to North City limits.
56. North 11th Street on the west side from sign to Washington Street.
57. 19th Street on the east side between signs from State Street to one-half block north of State Street.
58. 18th Street on both sides from sign to Clark Street.
59. East Main Street on the south side between 6th Street and 8th Street.
60. 12th Street on both sides from Grant Street to Blaine Street.
61. 12th Street on the east side from Blaine Street to Glenn Miller Drive.
62. 16th Street on both sides from Wells Street to Highway 2 and 71 Bypass.
63. Stuart Street on the south side from 16th Street to alley west of 16th Street.
64. Essie Davison Drive on both sides.
65. Logan Street on the south side from South 20th Street east a distance of 50 feet.
66. West Boundary Street on both sides from South 16th Street west a distance of 75 feet.
67. 1st Street on the west side from Washington Street north a distance of 2,250 feet.
68. 200 block of East Vine Street on the south side from North 15th Street east 150 feet.
69. West Willow Street on both sides from 16th Street west 3 blocks.
70. South 20th Street on both sides from Highway 2 bypass to LaPerla Drive.

69.09 TRUCK PARKING LIMITED. It is unlawful for any person to park any semi-tractor, semi-trailer, truck exceeding five (5) tons or any school bus on the streets of any R-1 Limited Residential District, R-2 Residential District, and R-3 Apartment District. It is the intent of this section to except motor homes and travel trailers. The operator of any above-mentioned vehicle so illegally parked shall be contacted and requested to move the vehicle to a legally zoned district. Failure to comply within a reasonable time shall constitute a violation of this section.

69.10 NO PARKING 8:00 A.M. TO 6:00 P.M. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal, between the hours of 8:00 a.m. and 6:00 p.m.

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

1. East Chestnut Street on the north side from 12th Street, the length of two (2) parking stalls.

69.11 NO PARKING 7:30 A.M. TO 5:00 P.M. MONDAY – FRIDAY EXCLUDING HOLIDAYS. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal, between the hours of 7:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays:

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

1. Garfield Street on both sides from 16th Street to Cardinal Drive.
2. Garfield Street on both sides from 14th Street to 5th Street.

69.12 LOADING ZONES. No person shall park a vehicle on any of the following designated streets for a period of time in excess of ten (10) minutes and then only while actually engaged in the delivery or receiving of merchandise or cargo.

- NONE -

69.13 SNOW REMOVAL. No person shall park any motor vehicle or other apparatus upon any street of the City that will obstruct the removal of snow, sleet or ice when there has been an accumulation of two (2) inches or more. Any vehicle left parked on any street in such a manner as to obstruct removal of snow, sleet or ice may be removed to a cleared area upon the street or impounded. No person shall recover any impounded vehicle without first paying the costs of removal and storage.

(Code of Iowa, 321.236[1])

69.14 FIRE LANES. No person shall stop, stand or park a vehicle in a fire lane as provided herein.

(Code of Iowa, Sec. 321.236)

1. Fire Lanes Established. The Fire Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.
2. Signs and Markings. Wherever a fire lane has been designated, the City Manager shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.
3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

69.15 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

69.16 PARKING ON PRIVATE PROPERTY. The purpose of this section is to discourage persons from parking on privately owned property without the consent of the owner.

1. Regulation. No person shall drive, stop, stand or park a vehicle onto or upon property or an area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of such privately owned property or facility.
2. Penalty. A violation of this section shall place such vehicle in the status of an illegally parked vehicle and, upon complaint of the owner, lessee or person in charge of the privately owned property or facility, said vehicle may be dealt with pursuant to Section 70.06 of this Code of Ordinances. A violation of this section is considered a misdemeanor.

[The next page is 395]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. 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 fifteen dollars (\$15.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00).

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

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer 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 401]

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

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

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

1. “All-terrain vehicle” or “ATV” means a motorized 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 that 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 is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and 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. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle 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 which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk

or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. 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 one thousand five hundred dollars (\$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)

o o o o o o o o o

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Carrying Articles
76.02 Traffic Code Applies	76.09 Riding on Sidewalks
76.03 Double Riding Restricted	76.10 Towing
76.04 Two Abreast Limit	76.11 Improper Riding
76.05 Bicycle Paths	76.12 Parking
76.06 Speed	76.13 Equipment Requirements
76.07 Emerging from Alley or Driveway	76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

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

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

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

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

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

approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

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

1. **Business District.** No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. **Other Locations.** When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. **Yield Right-of-way.** Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

1. **Lamps Required.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

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

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

o o o o o o o o o o

CHAPTER 77

BICYCLE LICENSING

77.01 License Required

77.02 License Plates or Decals

77.03 Maintenance of License Records

77.01 LICENSE REQUIRED. No person who resides within the City shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate or decal is attached thereto as provided herein.

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

1. License Application. Application for a bicycle license and license plate or decal shall be made upon a form provided by the City and shall be made to the Police Chief. A license fee of one dollar (\$1.00) shall be paid to the City before each license is granted.

2. Issuance of License. The Police Chief, upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective immediately.

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

3. Transfer of License. Upon the sale or other transfer of ownership of a licensed bicycle the license shall be transferred to the new owner and the records of the City changed to reflect the new ownership upon request.

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

77.02 LICENSE PLATES OR DECALS. License plates or decals are required as follows:

1. Issued. The Police Chief, upon issuing a bicycle license, shall also issue a license plate or decal bearing the license number assigned to the bicycle and the name of the City.

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

2. Attached to Bicycle. The Police Chief shall cause such license plate or decal to be firmly attached to the bicycle for which issued in such position as to be plainly seen from the rear.

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

3. Removal. No person shall remove a license plate or decal from a bicycle during the period for which issued unless said bicycle is dismantled and no longer operated upon any street in the City.

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

4. Lost License. In the event a license plate or decal shall be lost, destroyed or stolen, the owner shall report such to the Police Chief immediately. A new license shall be issued upon payment of a fee of one dollar (\$1.00).

77.03 MAINTENANCE OF LICENSE RECORDS. The Police Chief shall keep a record of the number of each license, the date issued, the name and address of the person to whom

issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected.

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

CHAPTER 78

ROLLER SKATES, SKATEBOARDS AND IN-LINE SKATES

78.01 Prohibited Use
78.02 Restricted Use

78.03 Right-of-Way
78.04 Penalty

78.01 PROHIBITED USE. The use of roller skates, skateboards and in-line skates or similar devices is prohibited in the following places:

1. On the sidewalk, streets and alleys around the City square and one block in each direction from the square.
2. On 16th Street from south City limits to 16th and Oak Street.
3. On Washington Street from 1st Street to 18th Street.
4. On Main Street from 6th Street to Cardinal Drive.
5. On Garfield Street from Schencks Road to Highway 2 and 71 Bypass.
6. State Street from 1st Street to west City limits.

78.02 RESTRICTED USE. The use of roller skates, skateboards and in-line skates or similar devices in places not prohibited shall be done only in a careful and prudent manner and not in a manner so as to cause or be likely to cause danger or injury to any person or property.

78.03 RIGHT-OF-WAY. The user or passenger of any such roller skates, skateboard or in-line skates or similar devices shall give the right-of-way to any pedestrian, motor vehicle, bicycle or any other user of any street, sidewalk or other public place and shall not interfere with the proper use of any sidewalk, street or other public place by any other person.

78.04 PENALTY. Any person in violation of any provision of this chapter is guilty of an offense and such person's roller skates, skateboard or in-line skates or similar device shall be impounded for not less than five (5) days for the first offense, ten (10) days for the second offense and thirty (30) days for the third and subsequent offenses.

[The next page is 421]

CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two 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 ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “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 that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. 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 ten dollars (\$10.00) per day, plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

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

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

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

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

[The next page is 451]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connections	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Application Fee and Connection Charge	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Cross-Connection; Backflow Prevention
90.10 Tapping Mains	90.21 Water Main Locating
90.11 Installation of Water Service Pipe	90.22 Private Wells

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means PeopleService, Inc. or any authorized agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall exercise such powers and duties as contained in the service agreement between the City and PeopleService, Inc.

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

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a

legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 APPLICATION FEE AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay the following fees to the City:

1. Application Fee. Every new water utility customer shall pay to the City a non-returnable and non-refundable customer application fee of seventy-five dollars (\$75.00).
2. Connection Charge. There shall be a connection charge in the amount of one hundred dollars (\$100.00) paid for each new or replacement connection to a water main.

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *State Plumbing Code*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper, in a minimum size of 3/4-inch. Any customer requesting a new water service or a customer with a water service needing replacement may apply for the use of a service line material other than that stated herein. Before consideration, this line must be at least three hundred (300) feet in length. Application for this change must be made to the Superintendent and the Superintendent will deem appropriate methods and materials on a case-by-case basis. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another

permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 CROSS-CONNECTION; BACKFLOW PREVENTION. When the Superintendent concludes that a possible cross-connection exists in a private residence, business or industry, or that a backflow condition could result, the customer shall take action deemed appropriate or install devices approved by the Superintendent to correct the problem. All costs will be borne by the owner and any violation of this provision will result in immediate termination of City service until the problem is corrected.

90.21 WATER MAIN LOCATING. When property owners, contractors or other utilities require location of water mains, valves or hydrant stubs, this will be on a no-charge basis if proper procedures have been followed as to the method of notification. If locations of private water services are required, the water department may charge a service call in the amount of twenty-five dollars (\$25.00) which will be on a case-by-case basis. The water department will not take any responsibility for damage to private service lines by owners, contractors or other utilities after said location. (See also Section 90.12.)

90.22 PRIVATE WELLS.

1. Wells Prohibited. No person shall dig, construct or install a water well of any type within the City limits except by special provision and permit of the Page County Regulating Authority (hereinafter referred to as the Authority). Such person must show that denying the permit and not allowing for a private well or water system will cause undue hardship. The Authority shall rule on all questions of undue hardship and such decision shall be final.
2. Health and Safety Standards. All private wells and water systems for which permits are granted shall meet the minimum health and safety standards as set forth by the appropriate County and State Health officials. All permit holders shall grant to the appropriate County and State Health Officials the right to inspect and test the private well and water system maintained upon the permit holder's property.
3. Existing Wells. Any private well or water system existing within the City limits at the time of adoption of the ordinance codified in this section shall be registered with the Authority to determine current use and if said well or water system meets health, safety and environmental standards.
4. 28E Agreement. The City shall enter into a 28E agreement with Page County for the purpose of resolving any potential jurisdictional issues and shall delegate to

the Authority jurisdiction to regulate and/or permit any private wells or water systems within the City limits.

[The next page is 463]

CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems- Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Costs

91.07 Meter Repairs

91.08 Right of Entry

91.09 Meter Tampering

91.10 Watering/Irrigation Meters

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the water department or a licensed plumber.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent. All meters shall be installed in a horizontal position unless otherwise approved by the Superintendent.

91.06 METER COSTS. The full cost of any meter required for new construction or modification of existing plumbing shall be paid to the City by the owner prior to or at the time of installation. This charge will include the meter price, and a service call charge, time for installation, and materials if installed by the water department. The owner will provide, per City requirements, the proper plumbing for the meter installation. Upon installation the meter will be the property of the water department for future care and maintenance.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.09 METER TAMPERING. Water service to a property shall be immediately terminated if an inside meter or remote reading register has been found to be tampered with or if a remote reading register has been removed without approval of the Superintendent. Restoration of service may be granted only by approval of the Council. Property owners or lessees shall be responsible for any actions of contractors or persons in their employ.

91.10 WATERING/IRRIGATION METERS.

1. Definition. "Watering/Irrigation meters" are defined as meters used for the purpose of metering irrigation water or any other uses where the City sewer lines are not used to carry excess or waste from said use.
2. Costs/Ownership. The property owner shall incur all costs for the meter and its installation. After approved installation the meter shall become the property of the City for further care and maintenance. Once installed the meter cannot be transferred to another location without approval of the Superintendent.
3. Rates and Service. All related water metered services shall be combined and billed according to the rates established in Section 92.02 for gallons used per month.
4. Permanently Discontinued Service. Any customer wishing to discontinue use of a watering/irrigation meter permanently must return the plumbing to its original configuration and all work must be inspected by the Superintendent.
5. Backflow Prevention. A backflow preventer of a design approved by the Superintendent must be installed on the outlet side of the irrigation meter. This applies to all existing and new irrigation services.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates and Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Temporary Vacancy
92.10 Service Fees

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES AND SERVICE. Water service shall be furnished at the following rates within the City:

(Code of Iowa, Sec. 384.84)

1. Beginning July 1, 2012, through June 30, 2013:
 - A. All gallons used per month @ \$10.50 per 1,000 gallons.
 - B. Minimum bill per month exclusive of sewer tax or other charges shall be \$15.00 for 2,000 gallons.
2. Beginning July 1, 2013, through June 30, 2014:
 - A. All gallons used per month @ \$11.00 per 1,000 gallons.
 - B. Minimum bill per month exclusive of sewer tax or other charges shall be \$15.00 for 2,000 gallons.

On or before January 1 of each year, this rate shall be reviewed by the Council to determine if gross receipts are sufficient to pay the expenses of operation and maintenance of the water system and to leave a balance of net revenues sufficient at all times to pay the principal and interest on revenue bonds as they become due and to maintain a reserve for the payment of principal and interest.

92.03 RATES OUTSIDE THE CITY.

(Code of Iowa, Sec. 364.4 & 384.84)

1. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.
2. Water service shall be furnished to Southwest Regional Water District according to a separate Joint Agreement.

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first (1st) day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the City Manager shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the City Manager's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of twenty-five dollars (\$25.00) shall be paid by the customer before service is restored after disconnection due to delinquency. If the work is done after normal working hours, a delinquent reconnection fee of thirty-five dollars (\$35.00) shall be paid to restore water service.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water

service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. In addition, a lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the 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 shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer 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 thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued or shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a twenty-five dollar (\$25.00) fee collected for restoring service. This fee will be paid before service is performed. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

92.10 SERVICE FEES. The fees for services carried out by the City personnel to water customers shall be as follows:

1. Customer Service Fee. A fee of twenty-five dollars (\$25.00) shall be charged for the water connection, meter reading and accounting labors in the regular changes in occupancy of property during normal working hours. This fee will be paid before service is performed. Watering/Irrigation meters will be considered a separate service. (See Section 91.10.)
2. Service Call. Any service performed by water department personnel and not considered usual or customary by the Superintendent shall be charged out at a rate of twenty-five dollars (\$25.00) plus any material used. If this service requires more than one hour, additional time will be charged out at a rate of twenty-five dollars (\$25.00) per hour plus materials. This rate applies only during normal working hours.

3. After-Hours Service Call. Any service performed by City personnel after normal working hours shall be charged out at a rate of thirty-five dollars (\$35.00). Any after-hours service requiring more than one hour to complete shall be charged out at the customary overtime rate plus materials. After-hours rates also apply to weekends and holidays.

[The next page is 473]

CHAPTER 93

WATER LINE EXTENSIONS

93.01 Purpose

93.02 Definitions

93.03 Construction by City

93.04 Construction by Owner

93.05 Connection Charge

93.06 Rights of City

93.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

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

1. “Builder” means the owner of land who causes a water main to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.
2. “Estimated cost” means a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, the materials to be used or installation methods, the determination of the Council shall be final and conclusive.

93.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a property or a public street where no water main has been installed may make application to the Council for the installation of a water main along such property and in the street for the purpose of serving the property in accordance with the following:

1. Application and Deposit. A written request for such installation, and a sum equal to the total estimated cost of the installation from the point where the water main is presently installed and terminates to the point where the most distance boundary of the owner’s lot abuts an adjoining property or the public street, shall be submitted to the Council.
2. Construction. Upon receipt of the deposit, the City shall construct the water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the water main, the landowner

shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. **Maximum Cost.** The additional cost of installation, as contemplated in subsections 3 and 4 above, shall not exceed one hundred ten percent (110%) of the estimated cost.

6. **Connecting Property.** The expense of connecting the property of the builder to the water main shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

93.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a property or public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. **City Supervision.** The installation of such a water main by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City. All water mains laid within the City limits shall be a minimum of six (6) inches in diameter and shall be constructed of ductile iron of a weight and design as specified by the Superintendent. All fittings, valves and fire hydrants shall meet specifications as set forth by the Superintendent. All main construction will be inspected by the Superintendent.

2. **Surety Bond.** When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the public street, and which bond shall guarantee the installation of the water main in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to public property incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the water main.

3. **Ownership of Water Main.** After the water main has been installed, it shall become the property of the City.

4. **Cost Approval.** For purposes of determining connection charges under Section 93.05 below, costs incurred by the owner shall be certified by the City and only so much of said costs as are approved by the City shall be used in determining connection charges as provided hereafter.

93.05 CONNECTION CHARGE. Following the installation of an extension to the water system under the provisions of this chapter, there shall be paid to the City a connection charge in an amount equal to one-half (½) the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the City prior to making any connection to said water main.

93.06 RIGHTS OF CITY. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

o o o o o o o o o o

CHAPTER 94

WATER CONSERVATION

94.01 Water Shortages
94.02 Conditions
94.03 Water Watch
94.04 Water Warning
94.05 Water Emergency
94.06 Base Allocation
94.07 Water Appeal Board

94.08 Appeal and Adjustment of the Base Allocation
94.09 Premium Rate for Imprudent Consumption
94.10 Adjustment of Premium Rate Charges
94.11 Penalties
94.12 Municipal Infraction
94.13 Reduction in Flow of Water to any Person

94.01 WATER SHORTAGES. From time to time, the City's water supply may become significantly constrained so that customary and usual demands cannot be met while still maintaining adequate flow in the Nodaway River. Under these conditions, the City Council may find and declare, by resolution, a public Water Watch, Water Warning, or Water Emergency, during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction in water consumption until, by resolution, the City Council finds and declares the constraint conditions to be ended.

94.02 CONDITIONS.

1. Water Watch. A Water Watch may be declared when a water shortage poses a potential threat to the ability of the water or wastewater system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a water watch include: decrease in average daily flow of the Nodaway River to below 15 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.
2. Water Warning. A Water Warning may be declared when a water shortage poses a serious 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 Warning include: decrease in average daily flow of the Nodaway River to below 8 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.
3. Water Emergency. A Water Emergency may be declared when a water shortage 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: decrease in average daily flow of the Nodaway River to below 5 cubic feet per second for seven consecutive days as measured at USGS Station 06817000.

94.03 WATER WATCH. Under a water watch, all customers of the water utility are encouraged to limit or curtail all nonessential uses of water in order to conserve water resources during the time of shortage or equipment failure. 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 pool or pond.
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.

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

1. Outdoor watering or irrigation of lawns is prohibited.
2. 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 seeding 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. Use of water-consuming comfort air conditioning equipment that consumes in excess of five percent of the water circulating in such equipment is prohibited.
9. Tank-load water sales may be curtailed or eliminated.
10. The irrigation system serving the golf course from the pre-sedimentation ponds is limited to one inch per acre per week.

Water reclaimed or recycled after some primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from other sources 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.

94.05 WATER EMERGENCY. Under a Water Emergency, Water Warning use restrictions will be in effect and, in addition, each customer will be afforded a monthly allocation of water.

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

94.07 WATER APPEAL BOARD. A Water Appeal Board shall be appointed during any Water Warning or Water Emergency. The Water Appeal Board shall consist of the Mayor,

the Superintendent of the water system, and three representatives of the community who shall be appointed by the Mayor with the approval of the City Council. The Water Appeal Board shall hear appeals of any action taken 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*.

94.08 APPEAL AND ADJUSTMENT OF THE BASE ALLOCATION. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

1. 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 thirty (30) days.
2. 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.

94.09 PREMIUM RATE FOR IMPRUDENT CONSUMPTION. In addition to the water rates duly enacted by the City Council, all persons shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation.

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

1. Adjustment 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 licensed 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.

94.11 PENALTIES. The following penalties shall apply for violations of Water Warning use restrictions imposed under this chapter.

1. **First Violation.** For a first violation, the utility 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 previous month's water bill.

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 previous month's water bill and, in addition, the utility shall interrupt 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.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal Board. The Water Appeal Board 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.

94.12 MUNICIPAL INFRACTION. A second or subsequent violation of the Water Warning or Water Emergency use restrictions 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.

94.13 REDUCTION IN FLOW OF WATER TO ANY PERSON. The Superintendent is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a Water Warning or Water Emergency.

[The next page is 495]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means PeopleService, Inc. or any authorized 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 such powers and duties as contained in the service agreement between the City and PeopleService, Inc.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet (61 meters) 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.

[The next page is 501]

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Connection Charge

96.03 Plumber Required

96.04 Connection Requirements

96.05 Sewer Tap; Independent Services

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 sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. There shall be a connection charge in the amount of one hundred dollars (\$100.00) paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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 *State Plumbing Code*, the laws of the State and other applicable rules and regulations of the City.

96.05 SEWER TAP; INDEPENDENT SERVICES. 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. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.

96.06 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with the provisions of the *State 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 *State 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 507]

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by

weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite

sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. **Radioactive Wastes.** Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. **Excess Alkalinity.** Any waters or wastes having a pH in excess of 9.5.
10. **Unusual Wastes.** Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. **Noxious or Malodorous Gases.** Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. **Damaging Substances.** Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. **Untreatable Wastes.** Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

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

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;
2. **Pretreatment.** Require pretreatment to an acceptable condition for discharge to the public sewers;
3. **Controls Imposed.** Require control over the quantities and rates of discharge; and/or

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

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions

98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage
98.09 Minimum Lot Area

98.01 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.

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than ten thousand (10,000) square feet.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Rate

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges 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. Beginning July 1, 2012, through June 30, 2013:
\$4.90 per 1,000 gallons of metered water service and water attributable to the customer for the property served, but in no event less than \$9.00 per month.
2. Beginning July 1, 2013, through June 30, 2014:
\$5.00 per 1,000 gallons of metered water service and water attributable to the customer for the property served, but in no event less than \$9.00 per month.

On or before January 1 of each year, this rate shall be reviewed by the Council to determine if gross receipts are sufficient to pay the expenses of operation and maintenance of the sewer system and to leave a balance of net revenues sufficient at all times to pay the principal and interest on revenue bonds as they become due and to maintain a reserve for the payment of principal and interest.

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account

becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

CHAPTER 100

SEWER EXTENSIONS

100.01 Purpose

100.02 Definition

100.03 Construction by City

100.04 Construction by Owner

100.05 Others Required to Connect

100.06 Building Sewers Installed

100.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

100.02 DEFINITION. For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

100.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. **Application and Deposit.** A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. **Construction.** Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. **Additional Costs.** In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. **Lien Authorized.** In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.
5. **Connecting Property.** The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

100.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.
2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond, in an amount to be set by the Council and made a matter of record in the minutes of the Council, which shall be in an amount equal to but not less than one hundred ten percent (110%) of the total estimated cost of the installation for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street, and the bond shall guarantee the installation of the sewer in as short a time as reasonably possible and shall further indemnify the City for the cost of completing the project in the event the applicant fails to complete the project within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in the installation, and shall further hold the City harmless for any and all other damages arising from the installation of the sanitary sewer.
3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

100.05 OTHERS REQUIRED TO CONNECT. Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sanitary sewer, as required by Chapter 95.

100.06 BUILDING SEWERS INSTALLED. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installation.

[The next page is 521]

CHAPTER 101

STORM WATER DRAINAGE SYSTEM DISTRICT UTILITY

101.01 Purpose

101.02 Definitions

101.03 Storm Water Drainage System District Established

101.04 Rates

101.05 Payment of Bills

101.06 Lien for Nonpayment

101.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Drainage System District Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

101.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of the storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
3. "Unit" means each household, each place of commerce/education/government/religion, or each industry, whether in a single building on a single lot or in a multiple-use building on a single lot or multiple lot complex. Each unit shall be charged individually, but where the complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex.
4. "User" means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

101.03 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED.

Pursuant to the authority of Section 384.84[5] of the *Code of Iowa*, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84[5])

101.04 RATES. Each user shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The service charges shall be billed as part of a combined service account which means a customer service account for the provision of two or more utility services. The Council may adopt rules, charges, rates and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of two dollars (\$2.00) on every City residential unit, six dollars (\$6.00) on every commercial/educational/governmental/religious unit, and ten dollars (\$10.00) on every industrial unit. Agricultural use of land is exempt from the requirements of this chapter.

101.05 PAYMENT OF BILLS. All Storm Water Drainage System District charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 and 92.08 relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

(Code of Iowa 384.84[2b] and [2d])

101.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa 384.84[3a])

[The next page is 561]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.08 Littering Prohibited
105.02 Definitions	105.09 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.10 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.11 Waste Storage Containers
105.05 Open Burning Restricted	105.12 Prohibited Practices
105.06 Separation of Yard Waste Required	105.13 Sanitary Disposal Project Designated
105.07 Disposal of Yard Waste	

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[2])
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.
(Code of Iowa, Sec. 455B.361[1])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

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) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(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.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. **Disaster Rubbish.** The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. **Trees and Tree Trimmings.** The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. **Flare Stacks.** The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. **Landscape Waste.** The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. **Recreational Fires.** Provided that the City Council, Page County Emergency Management, the State Fire Marshal or any other regulatory agency has not declared a burn ban due to climatic conditions or a potential health hazard alert, all recreational fires shall comply with the following:

A. No recreational fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed. No recreational fire shall be started at a time when the wind speed exceeds seven miles per hour. Burning hours for recreational fires are from 9:00 a.m. to midnight, any day of the week.

B. A recreational fire is not a bonfire. Bonfires are not permitted. Recreational fires shall be surrounded by a noncombustible material in an area not to exceed two feet inside diameter and a flame height of approximately two feet.

C. Only clean wood (such as one would burn in a living room fireplace) or charcoal is allowed to be burned. No burning of trash or treated lumber is allowed.

- D. Recreational fires shall be constantly attended by a person 18 years of age or older, who is knowledgeable in the use of fire-extinguishing equipment. An attendant shall supervise a recreational fire until such fire has been extinguished.
 - E. Fire-extinguishing equipment, such as buckets, shovels or garden hoses, shall be readily available for use at recreational fires.
 - F. Recreational fires shall not be conducted within 25 feet of a structure or combustible material unless contained in a barbeque pit. Conditions which would cause a fire to spread to within 25 feet of a structure shall be eliminated prior to ignition.
 - G. Barbeque pits in outdoor locations shall be constructed of concrete or approved noncombustible materials.
 - H. Barbeque pits outside of buildings shall not be located within 25 feet of combustible walls or roofs or other combustible material.
 - I. Manufactured “fire pits” and “smokers” that are equipped with screens and lids, if put together and used according to the manufacturer’s instructions, can be placed no closer than 15 feet to a combustible structure.
 - J. No burning shall be allowed on any street, sidewalk, alley, City right-of-way or public property.
6. Outdoor Cooking Fires. Outdoor cooking fires (barbecue grills) burning common cooking fuels such as natural and/or LP gas or charcoal being use for the cooking of food for human consumption are permitted.
7. Exceptions. Notwithstanding subsections 5 and 6 above, the following are exceptions, provided that the City Council, Page County Emergency Management, the State Fire Marshal, or any other regulatory agency has not declared a burn ban due to climatic conditions or a potential health hazard alert:
- A. Commercial incinerators (State Department of Natural Resources permit required).
 - B. Special ceremonial fires, e.g., American Legion flag burning ceremony (such exception shall only apply after the applicant has obtained a permit from the City).
 - C. Any open burning used solely for training purposes, provided that such burning only occurs after a permit has been obtained from the Fire Chief, specifying the following:
 - (1) The date and time of the proposed training.
 - (2) The location of the training.
 - (3) The name and address of a responsible party conducting the training.
 - (4) A brief description of the safety procedures to be implemented by the responsible party conducting the training session.

- (5) A statement signed by the applicant specifically agreeing to hold the City harmless from any damages arising out of said burning and further agreement to indemnify the City therefrom.
8. Authority to extinguish. The City, through its Fire Department or Police Department, is authorized to order the immediate extinguishing of any open burning occurring within the City which is deemed by City officials to violate the prohibition of this chapter or to constitute an emergency or a neighborhood nuisance. Failure to extinguish shall be a violation of this chapter.
9. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.
(IAC, 567-23.2[3f])
10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.
(IAC, 567-23.2[3j])
11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.
(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composted or burned on the premises or placed in special yard waste containers and set out to be picked up by collectors licensed by the City. 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.

1. Tree Limbs and Brush. Tree limbs of less than four (4) inches in diameter and brush will be collected provided they are placed at the curb or alley line, securely tied in bundles not more than forty-eight (48) inches long or eighteen (18) inches in diameter when not in approved containers and which weigh no more than seventy-five (75) pounds.
2. Yard Waste Containers. All other yard waste collected shall be placed and maintained in degradable bags, containers or packages. “Degradable” means any untreated paper bags or biodegradable plastic bags acceptable to the composting or dumping station used by licensed collectors, owners or occupants.

105.07 DISPOSAL OF YARD WASTE. Until such time as the Page County Landfill develops an alternative site for disposal of yard waste, there is hereby designated a “yard waste disposal site” to be located at the Municipal Airport, and to be operated by the City.

1. Licensed collectors may dump yard waste collected within the City at the designated site. Owners or occupants may transport their yard waste and dump at the designated site. Such dumping is restricted to yard waste as defined in Section 105.06.
2. The Council, by resolution, shall approve rules and regulations for operation of the designated dumping site which shall include hours of operation, type and brand

of containers and where they may be obtained, and any fees to be collected for dumping.

105.08 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)

105.09 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.10 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 that requires special handling and that 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])

105.11 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. Each residential premises will be allowed no more than three 33-gallon trash bags or three 33-gallon trash cans of solid waste per week, not to exceed 100 gallons in total per week. Each bag or container must not exceed 55 pounds in weight. For any additional waste over the 100 gallons, the residential premises must be assessed an additional charge by the hauler. The contracting hauler will not pick up any bags or cans exceeding

the 100 gallons per residential premises limit without assessing an additional charge. 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; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.12 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.

105.13 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Page County are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

[The next page is 571]

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection

106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collector's License

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by the City.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 COLLECTOR'S LICENSE. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:
 - A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

- B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.
 - D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. Insurance. No collector's license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury:	– \$100,000 per person.
	– \$300,000 per occurrence.
Property Damage:	– \$ 50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. License Fee. A license fee in the amount of ten dollars (\$10.00) per year (July 1 to June 30) per truck shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant. If a license is issued after December 1 of any year, the fee for the remainder of that year shall be six dollars (\$6.00).
4. License Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested license shall be issued to be effective for a period of one year from the date approved.
5. License Renewal. An annual license may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.
6. License Not Transferable. No license authorized by this chapter may be transferred to another person.
7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.
8. Grading or Excavation Excepted. No license or permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or

receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

[The next page is 581]

CHAPTER 107

YARD WASTE UTILITY

107.01 Purpose
107.02 Rates

107.03 Payment of Bills
107.04 Lien for Nonpayment

107.01 PURPOSE. The purpose of this chapter is to establish a Yard Waste Utility and provide a means of funding the construction, operation, and maintenance of a Yard Waste Facility, including (but not limited to) site maintenance, site preparation, equipment purchases, and site closing costs. The Council finds that the construction, operation, and maintenance of the City's Yard Waste site should be funded through current water and sewer customers.

107.02 RATES. Each customer shall pay for the Yard Waste Facility service provided by the City. The rates for the operation and maintenance of the Yard Waste Facility shall be collected by imposing a monthly rate on each residential, commercial, and industrial user within the City. The service charges shall be billed as part of a combined service account, which means a customer service account for the provision of two or more utility services. The Council may adopt rules, charges, rates and fees for the use of the City's Yard Waste Facility for services provided by the City relating to that facility. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension, and replacement of the City's Yard Waste Facility, the costs of bond repayment, regulation, administration, and services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of one dollar (\$1.00) on every City residential, commercial/educational/governmental/religious unit, and every industrial unit.

107.03 PAYMENT OF BILLS. All Yard Waste Facility charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 and 92.08 relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

(Code of Iowa, Sec. 384.84[2b] and [2d])

107.04 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the Yard Waste Facility. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84[3a])

[The next page is 601]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Safe Operation Required
110.03 Construction and Excavations

110.04 Uninterrupted Service
110.05 Nonexclusive
110.06 Term of Franchise
110.07 Agreement

110.01 FRANCHISE GRANTED. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of the ordinance codified by this chapter[†], to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City as now or hereafter constituted for the purpose of distributing, supplying and selling gas to the City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this chapter shall be construed to mean natural gas only.

110.02 SAFE OPERATION REQUIRED. The mains and pipes of the Company must be so placed so as not to interfere unnecessarily with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public places in the City nor unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of the natural gas distribution system.

110.03 CONSTRUCTION AND EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall backfill all opening in such manner as to prevent settling or depressions in the surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04 UNINTERRUPTED SERVICE. The Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

[†] **EDITOR’S NOTE:** Ordinance No. 804, adopting a gas franchise for the City, was passed and adopted on June 11, 2002. The Company accepted the franchise on August 12, 2002.

110.05 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

110.06 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company, its successors and assigns.

110.07 AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company or which delay utility operations.

[The next page is 607]

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise	111.06 Indemnification
111.02 State Code Restrictions and Limitations	111.07 Maintenance and Operation
111.03 Excavations; Trimming Trees	111.08 Standards of Operation
111.04 Relocation of Property	111.09 Police Regulations
111.05 Restoration of Property	111.10 Franchise Fee

111.01 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 system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and outside of the City and to furnish and sell electric energy to the City and its inhabitants. For the term of the 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 from and after the effective date of the ordinance codified in this chapter.[†]

111.02 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*.

111.03 EXCAVATIONS; TRIMMING TREES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures, and accessories, as well as to excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be 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. The Company is authorized and empowered to prune or remove at Company expense any trees extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning of trees shall be done to current nationally accepted safety and utility industry standards.

111.04 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, or an alternate construction method, which would not

[†] **EDITOR’S NOTE:** Ordinance No. 840, adopting an electric franchise for the City, was passed and adopted on November 8, 2007.

cause the relocation of the Company installations, the City shall consider but it not required to select said alternative route or construction method. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, or by using a different method to perform the street and/or curbing construction, and said other cost of construction or relocation is less than the Company's, the City shall consider but it not required to select the route or method that is less expensive. The Company will notify the City if project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 RESTORATION OF PROPERTY. In making excavations in any streets, avenues, alleys, and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

111.06 INDEMNIFICATION. The Company shall indemnify and save harmless 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 in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by the franchise, provided, however, that the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees, or agents.

111.07 MAINTENANCE AND OPERATION. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

111.10 FRANCHISE FEE. The City reserves and has the right to impose a franchise fee pursuant to the *Code of Iowa*. The franchise fee shall only be imposed following a public hearing and adoption of an ordinance authorizing said franchise fee. The City shall work with the Company to develop a methodology to implement the franchise fee. The City shall provide the Company with 90 days' advance notice of the effective date of any franchise fee put into effect by the City.

[The next page is 611]

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Regulations

112.03 Moving of Structures or Vehicles

112.04 Indemnification

112.05 Property of Grantee

112.01 FRANCHISE GRANTED. General Telephone Company of the Midwest, a corporation, its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted a franchise for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter[†] to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the City, to adjacent rural areas and to the public at large telephone and telecommunications service, local and long distance, and telecommunication by telephone or other electronic signals and for the conduct of a general telephone and telecommunications business therein.

112.02 REGULATIONS. Grantee’s rights and privileges in the public ways and grounds of the City shall be exercised as follows:

1. Locations of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of the City’s street committee or such other officer or officers as may be designated by the Mayor and Council for that purpose.
2. The installations of the Grantee shall be so placed and the servicing and operation thereof so performed as not to interfere unreasonably with ordinary travel on the public ways or the ingress to or egress from public or private property.
3. Grantee may make excavations in public grounds or ways and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.
4. Grantee shall permit the City to attach to its poles its fire and/or police wires and apparatus incident thereto, such attachments to be made under the direction and supervision of the Grantee and so made and maintained as not to interfere with the Grantee’s use of said poles.

112.03 MOVING OF STRUCTURES OR VEHICLES. Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the City vehicles or structures, other than parade components, of such height or size as to interfere

[†] **EDITOR’S NOTE:** Ordinance No. 669, adopting a telephone franchise for the City, was passed and adopted on March 22, 1983.

with its poles and/or wires and shall temporarily remove or adjust the same to permit such passage, provided:

1. Written notice thereof shall be served upon Grantee's agent or manager in the City not less than forty-eight (48) hours in advance of the time set for the proposed passage.
2. Grantee is paid in advance the actual cost of such accommodation.

112.04 INDEMNIFICATION. The Grantee shall indemnify the City against loss from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

112.05 PROPERTY OF GRANTEE. It is unlawful for any person to injure, destroy or deface any property of the Grantee lawfully installed and maintained or to post bills or signs thereon.

[The next page is 675]

CHAPTER 115

CEMETERY

115.01 Definition

115.02 Trusteeship

115.03 Cemetery Superintendent

115.04 Duties of Superintendent

115.05 Records

115.06 Sale of Interment Rights

115.07 Perpetual Care

115.08 Cemetery Lots Without Perpetual Care

115.09 Annual Care

115.10 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Clarinda Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

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

115.03 CEMETERY SUPERINTENDENT. The Cemetery Superintendent shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

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

115.04 DUTIES OF SUPERINTENDENT. The duties of the Cemetery Superintendent are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.08 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.09 ANNUAL CARE. An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.10 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who

purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Code of Iowa, Sec. 523I.304)

[The next page is 701]

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 Nudity Prohibited
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 two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours

of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with 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 eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. 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])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 NUDITY PROHIBITED. It is unlawful for any owner, manager, officer, agent, employee or person in charge of any establishment within the City of Clarinda licensed to sell beer, wine or liquor, for on-site consumption, to knowingly exhibit, suffer, allow, permit, engage in, participate in or be connected with any show, performance or other presentation upon the licensed premises, which in whole or in part, depicts nudity or sexual conduct or any simulation thereof or to show or exhibit any motion picture, digital movie or slides which in whole or in part, depicts nudity or sexual conduct or any simulation thereof. Any movie rated “R” or lower by the Motion Picture Association of America is deemed not to be in violation of this section. Movies released before ratings by the Motion Picture Association of America will be deemed not to be in violation of this section until the owner, manager, officer, agent, employee or person in charge of any establishment within the City of Clarinda licensed to sell beer, wine or liquor, for on-site consumption is notified in writing by the City to the contrary. This section shall also apply to any establishments open to public business, commonly known as “Juice Bars,” where beer, wine or liquor is not sold for public consumption. This section does not apply to reading or printed materials brought onto the licensed premises by a patron for his/her own reading. As used in this section, “nudity” means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering or showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the darkened area surrounding the nipple or the depiction of covered male genitals in a discernibly turgid state.

120.07 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or

mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

[The next page is 711]

CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

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 thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under

this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

[The next page is 721]

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 License Exemptions
122.08 Display of License	122.17 Charitable and Nonprofit Organizations
122.09 License Not Transferable	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of twenty-five dollars (\$25.00) 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 twenty dollars (\$20.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day..... \$ 10.00
 - B. For one week..... \$ 20.00
 - C. For up to six (6) months..... \$ 40.00
 - D. For one year or major part thereof \$ 50.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, the City may require an applicant to provide 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 6:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee’s local address. The notice shall contain particulars of the complaints against the licensee, the ordinance

provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 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 Clarinda 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.

122.17 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 122.14 of this chapter.

[The next page is 731]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Insurance Required
123.05 Permit Fee
123.06 Permit Issued

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (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 City Manager, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.05 PERMIT FEE. A permit fee of twenty-five dollars (\$25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.06 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.

123.07 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.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 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.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 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 775]

CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.07 Washing Vehicles
135.02 Obstructing or Defacing	135.08 Burning Prohibited
135.03 Placing Debris On	135.09 Excavations
135.04 Playing In	135.10 Maintenance of Parking or Terrace
135.05 Traveling on Barricaded Street or Alley	135.11 Failure to Maintain Parking or Terrace
135.06 Use for Business Purposes	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. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit

holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of ten dollars (\$10.00) 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 bond and insurance certificate, and payment of any required fees, a permit shall be issued.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's

property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

[The next page is 781]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Awnings
136.04 Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display
	136.19 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “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. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
 - C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot outside the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. 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 (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

[The next page is 789]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR’S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
563	April 20, 1971		
567	July 20, 1971		
575	September 4, 1972		
577	December 19, 1972		
583	June 5, 1973		
584	June 5, 1973		
640	August 21, 1979		
655	November 25, 1980		
656	October 21, 1980		

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 Clarinda, 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
140.05 Unlawful Use of Controlled Access Facility
140.06 Parking Restricted

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. Projects No. F-71-1(8)—20-73, F-2-2(5)—20-73 and P-2-0(7)-30-73. On the Primary Road System extension improvement, Projects No. F-71-1(8)—20-73, F-2-2(5)—20-73 and P-2-0(7)-30-73, Primary Road Relocated Iowa No. 2, U.S. 71 and Relocated R1 within the City, described as follows:

Relocated Iowa 2: from approximate Section 51 & 65 at the west corporation line thence southeasterly and northeasterly on relocation to approximate Station 96 & 17 at 16th Street

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Projects No. F-71-1(8)—20-73, F-2-2(5)—20-73 and P-2-0(7)-30-73, on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.

2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.
5. Signs on Public Property. No signboards will be allowed on public property along said highway.
6. Signs on Private Property. No signboards will be allowed on private property when such signboards will obstruct the view of any portion of the public highway or street or railroad track.

140.06 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.
3. Iowa No. 2 and U.S. 71. Parking of any nature is prohibited on Relocated Iowa 2 from approximate Station 51 & 65 at the west corporation line thence southeasterly and northeasterly on relocation to approximate Station 96 & 17 at 16th Street and on U.S. 71 and Relocated U.S. 71 from approximate Station 545 & 83 at the south corporation line thence northerly on 16th Street to approximate Station 550 & 88 thence northeasterly on relocation to approximate Station 597 & 33 at the east corporation line.

[The next page is 805]

CHAPTER 145

MANUFACTURED AND MOBILE HOMES

145.01 Definitions

145.03 Foundation Requirements

145.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “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 (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “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 their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

145.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a 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.

145.03 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 825]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

o o o o o o o o o o

CHAPTER 151

TREES

151.01 Purpose	151.07 Duty to Trim Trees on Private Property
151.02 Definitions	151.08 Trimming of Trees
151.03 Street Tree Species to be Planted	151.09 Removal of Stumps
151.04 Public Tree Care	151.10 Protection of Trees
151.05 Removal of Trees	151.11 Arborist's License and Bond
151.06 Removal of Dead or Diseased Trees on Private Property	151.12 Permits

151.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring street trees to be uniformly located and maintained. The primary responsibility for maintaining street trees is placed upon the abutting property owner, but the City Tree Board may supervise any planting, cutting, trimming or removal of said trees.

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

1. "City Tree Board" means the City Tree Board established under Chapter 25 of this Code of Ordinances.
2. "Parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and 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.
3. "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.
4. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
5. "Public property" means any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
6. "Street" means the entire width between property lines of streets, avenues or highways.
7. "Street trees" means trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or highways within the City.

151.03 STREET TREE SPECIES TO BE PLANTED. A City tree reference guide constitutes the official street tree species for the City. Copies are available at the City Hall. The guide also indicates the arboricultural specifications and standard practices for the City. To insure that trees are properly placed with the right species a permit must be issued by the City.

151.04 PUBLIC TREE CARE. The City, on the advice of the City Tree Board, shall have the right to plant, prune and maintain trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

151.05 REMOVAL OF TREES. The City, on the advice of the City Tree Board, shall remove any tree on the streets of the City which interferes with the making of improvements, public utilities or with travel thereon. The City shall additionally remove any trees on the street, not on private property, which have become diseased and which cannot be saved by proper treatment with pesticides and removal of diseased limbs or branches or which constitute a danger to the public or which may otherwise be declared a nuisance. In all instances of removal of said trees, a permit must be secured from the City Tree Board.

151.06 REMOVAL OF DEAD OR DISEASED TREES ON PRIVATE PROPERTY. The City, on the advice of the Tree Board, shall have the right to cause the removal of any dead or diseased trees on private property within the City which such trees constitute a hazard to life and property or which harbor insects or disease which constitute a potential threat to other trees within the City. The owners of such trees will be notified in writing. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

151.07 DUTY TO TRIM TREES ON PRIVATE PROPERTY. The property owner shall trim trees that are located on private property so that all branches will be at least thirteen (13) feet above the surface of the street and nine (9) feet above the sidewalks. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with visibility of any traffic control device or sign.

151.08 TRIMMING OF TREES. Except as allowed in Section 151.07, no person may trim or cut any tree in a street or public place without securing a permit from the City. This section shall not be construed as to conflict with any of the provisions of the existing utility franchises.

151.09 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed not less than six (6) inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

151.10 PROTECTION OF TREES. During any redevelopment, razing or renovating, no more than fifty percent (50%) of the trees shall be cut, damaged or removed except by specific permit. No person shall excavate any ditch, tunnels, trenches, or lay any drive within a radius of twenty (20) feet from any tree. No person shall intentionally damage, cut, carve, attach any rope, wire, nails, advertising posters or any other contrivance to any tree or allow any gaseous, liquid, chemical or solid substance that is harmful to such trees to come in contact with them, or set fires or permit fire to burn when such fire or the heat will injure any portion of any tree. Tree topping is not allowed on any publicly owned tree except by specific permit. Permits will be issued by the City after review and agreed upon by the City Tree Board.

151.11 ARBORIST'S LICENSE AND BOND. It is unlawful for any person to engage in the business or occupation of pruning, treating or removing trees within the City without first applying for and procuring a license. The license fee shall be fifty dollars (\$50.00) annually in advance; provided, however, no license shall be required of any public service company or City employee doing such work in the pursuit of such person's public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of general liability insurance in the minimum amounts of \$250,000.00 for bodily injury and \$250,000.00 property damage indemnifying the City or any person injured or damaged, resulting from the pursuit of such endeavors as herein described.

151.12 PERMITS. Any person wishing to plant or remove any tree on the street right-of-way, also known as "terrace," must file a written application to obtain a permit from the Clerk's office.

[The next page is 851]

CHAPTER 155

BUILDING CODE

155.01 Short Title	155.19 Building Permit Fees
155.02 Purpose	155.20 Inspection Required
155.03 Adoption of State Building Code	155.21 Lot Survey
155.04 Copies Filed	155.22 Concealed Work
155.05 Building Official	155.23 Inspection Record Card
155.06 Board of Appeals	155.24 Approvals Required
155.07 Permits Required	155.25 Inspections
155.08 Emergency Work	155.26 Maintenance
155.09 Permit Application	155.27 Special Inspections
155.10 Plans and Specifications	155.28 Special Inspector
155.11 Plan Review	155.29 Approved Fabricators
155.12 Plan Approval	155.30 Request for Inspection
155.13 Partial Plans	155.31 Access
155.14 Retention of Plans	155.32 Power, Fuel and Water Supply Connections
155.15 Issuance of Permits	155.33 Certificate of Occupancy
155.16 Validity	155.34 Violations
155.17 Expiration of Permit	155.35 Penalty
155.18 Suspension or Revocation	

155.01 SHORT TITLE. This chapter shall be known as the Clarinda, Iowa, Building Code, and may be cited as such, and will be referred to herein as “this chapter.”

155.02 PURPOSE. The purpose of this chapter is to protect public health, property, welfare and safety by establishing reasonable minimum requirements for the construction, repair, moving, demolition and use of buildings, structures and related equipment, fixtures and systems.

155.03 ADOPTION OF STATE BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the Iowa State Building Code, promulgated pursuant to Chapter 103A of the *Code of Iowa*, including the one- and two-family dwelling code, is hereby adopted by reference.

(Code of Iowa, Sec. 103A.10[2b] and Sec. 380.10)

155.04 COPIES FILED. Official copies of the aforementioned Iowa State Building Code, the standard codes adopted therein, and a certified copy of this chapter are on file in the office of the City Clerk. Certified copies of this chapter are also on file in the office of the State Building Code Commissioner and in the office of the Secretary of State.

(Code of Iowa, Sec. 103A.12 and Sec. 380.8)

155.05 BUILDING OFFICIAL. The City Manager is the Building Official and is hereby authorized and directed to enforce all the provisions of this chapter. The Building Official has the following powers and duties:

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

1. Assistants. In accordance with established procedure and with the approval of the Council, the Building Official may appoint such number of officers, inspectors and assistants, and other employees as shall be authorized from time to time.

2. Annual Report. The Building Official shall submit a report to the Council not less than once a year, covering the administration and enforcement of this chapter during the preceding period. Said report shall incorporate a summary of recommendations as to desirable amendments to this chapter.
3. Records. The Building Official shall keep a permanent, accurate account of all fees and other moneys collected and received under this chapter, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate.
4. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe as defined in this chapter, the Building Official may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this chapter; provided that if such building or premises be occupied, the Building Official shall first present proper credentials and demand entry; and if such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry. When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this chapter.
5. Stop Orders. Whenever any work is being done contrary to the provisions of this chapter, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.
6. Occupancy Violations. Whenever any structure is being used contrary to the provisions of this chapter, the Building Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of this chapter; provided, however, that in the event of an unsafe building the procedures for the abatement of a nuisance shall apply.
7. Authority to Condemn Equipment. Whenever the Building Official learns or ascertains that any equipment, as defined in this chapter, has become hazardous to life, health, or property, the Building Official shall order, in writing, that such equipment be restored to a condition of safety or be dismantled or removed from its present location. The written notice shall fix a time limit for compliance with such order. No person shall use or maintain the defective equipment after receiving such notice.
8. Liability. The Building Official or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the City in the discharge of duties, shall not thereby become liable personally and is hereby

relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of duties. Any suit brought against the Building Official or employees, because of such act or omission performed by them in the enforcement of any provisions of this chapter, shall be defended by the City until final termination of the proceedings.

9. Cooperation of Other Officials. The Building Official may request, and shall receive so far as may be necessary in the discharge of any duties, the assistance and cooperation of other officials of the City.

155.06 BOARD OF APPEALS. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this chapter, there shall be and is hereby created a board of appeals, consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction. The Building Official shall be an ex officio member and shall act as Secretary of the Board. The Board of Appeals shall be appointed by the Council and shall serve at the discretion of the Council. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a copy to the appellant and a copy to the State Building Code Commissioner.

(Code of Iowa, Sec. 103A.13; IAC 630-5.3[5])

155.07 PERMITS REQUIRED. Permits shall be required as follows:

1. Building. No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Building Official.

2. Mechanical. No person shall install, alter reconstruct or repair any heating, ventilating, cooling, or refrigeration equipment unless a permit therefor has been obtained from the Building Official except as otherwise provided in this chapter. A permit shall be obtained for all heating, ventilating, cooling, or refrigeration equipment, moved with, or installed in, any relocated building. A separate permit shall be obtained for the equipment installed in each separate building or structure. A permit shall not be required for the following:

- A. Any portable heating appliance.
- B. Any portable ventilating equipment.
- C. Any portable cooling unit.
- D. Any steam, hot, or chilled water piping within any heating or cooling equipment regulated by this chapter.
- E. Replacement of any component part or assembly of an appliance which does not alter its original approval and complies with other applicable requirements of this chapter.
- F. Any portable evaporative cooler.
- G. Any refrigerating equipment which is a part of the equipment for which a permit has been issued pursuant to the requirements of this chapter.

H. Any unit refrigerating system.

155.08 EMERGENCY WORK. In emergency situations, work may be initiated without first submitting a permit application and receiving a permit therefor. However, a permit application must be submitted within a reasonable time after the passage of the critical period. With this one exception all emergency work must be done in accordance with this chapter.

155.09 PERMIT APPLICATION. To obtain any required permit, the applicant shall file application therefor on forms provided by the Building Official for that purpose. Each application shall contain all information necessary to the lawful enforcement of the provisions of this chapter.

(Code of Iowa, Sec. 103A.19[5])

155.10 PLANS AND SPECIFICATIONS. With each application for a building permit, and when required by the Building Official for enforcement of any provisions of this chapter, two sets of plans and specifications shall be submitted. The Building Official may require such plans and specifications to be prepared and designed by an engineer or architect licensed by the State of Iowa to practice as such. Plans and specifications when required shall be of sufficient detail and clarity to show that the proposed work will conform to the provisions of this chapter and of all applicable laws, ordinances, rules, regulations and orders. The Building Official may waive the filing of plans and specifications with an application for the following:

1. One-story buildings of conventional wood stud construction with an area not exceeding six hundred (600) square feet.
2. Private garages, carports, sheds, and agricultural buildings of conventional wood stud construction.
3. Small and unimportant work.

155.11 PLAN REVIEW. Required plans and specifications shall be checked by the Building Official. Such plans may be reviewed by other City departments or personnel to check compliance with the laws and ordinances under their jurisdiction.

155.12 PLAN APPROVAL. If the plans and specifications as filed appear to conform to the requirements of this chapter and other laws and ordinances the Building Official shall endorse in writing or stamp on all sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the Building Official, and all work shall be done in accordance with the approved plans.

(Code of Iowa, Sec. 103A.19[1])

155.13 PARTIAL PLANS. The Building Official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved provided adequate information and detailed statements have been filed complying with all pertinent requirements of this chapter. The holder of such permit shall proceed at the holder's own risk without assurance that the permit for the entire building or structure will be granted.

155.14 RETENTION OF PLANS. One set of approved plans, specifications, and computations shall be retained by the Building Official for a period of not less than ninety

(90) days from date of completion of the work covered therein, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept on such building or work at all times during which the work authorized thereby is in progress.

155.15 ISSUANCE OF PERMITS. When the Building Official is satisfied that the work described in an application for a permit and the plans and specifications filed therewith, if required, conform to the requirements of this chapter and other pertinent laws and ordinances including any applicable soil erosion control plans, and that the fees as specified have been paid in full, the Building Official shall issue a permit therefor to the applicant.

(Code of Iowa, Sec. 103A.19[4])

155.16 VALIDITY. The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorizes is lawful. The issuance of a permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on thereunder when in violation of this chapter or of any other chapter of this Code of Ordinances or of any other ordinance of the City.

155.17 EXPIRATION OF PERMIT. Every permit issued by the Building Official under the provisions of this chapter shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within one hundred twenty (120) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days. Before such work can be recommenced a new permit shall be first obtained so to do, and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.

155.18 SUSPENSION OR REVOCATION. The Building Official may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this chapter.

155.19 BUILDING PERMIT FEES. A fee for each building permit shall be paid to the Building Official as set forth herein. The determination of value or valuation under any of the provisions of this chapter shall be made by the Building Official. The valuation to be used in computing the permit and plan checking fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and any other permanent work or permanent equipment. The Building Official will use as a guide to determine the valuation the latest "Building Valuation Data," and the "Regional Modifiers," as published by the International Conference of Building Officials, unless the applicant can show that the actual cost will be less.

(Code of Iowa, Sec. 103A.19)

BUILDING PERMIT FEES	
TOTAL VALUATION	FEE
\$1.00 to \$25,000.00	\$ 20.00
\$25,001.00 to \$60,000.00	\$ 40.00
\$60,001.00 to \$100,000.00	\$ 80.00
\$100,001.00 and up	\$200.00

155.20 INSPECTION REQUIRED. All construction or work for which a permit is required may be subject to inspection by the Building Official, and certain types of construction shall have continuous inspection by special inspectors, as specified in Section 155.27.

(Code of Iowa, Sec. 103A.19[1])

155.21 LOT SURVEY. A survey of the lot may be required by the Building Official to verify compliance of the structure with approved plans.

155.22 CONCEALED WORK. That portion of any work or equipment intended to be concealed by any permanent portion of the building shall not be concealed until inspected and approved.

155.23 INSPECTION RECORD CARD. Work requiring a permit shall not be commenced until the permit holder or agent shall have posted an inspection record card in a conspicuous place on the front premises and in such position as to allow the Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained in such position by the permit holder until the certificate of occupancy or satisfactory completion has been issued.

155.24 APPROVALS REQUIRED. No work shall be done on any part of the building or structure beyond the point indicated in each successive inspection without first obtaining the written approval of the Building Official. Such written approval shall be given only after an inspection shall have been made of each successive step in the construction as indicated by each of the inspections required in Section 155.25. There shall be a final inspection and approval of all buildings and work when ready for occupancy and/or completed.

155.25 INSPECTIONS. The Building Official, upon notification from the permit holder or agent, may make the following applicable inspections and shall either approve that portion of the work as completed or shall notify the permit holder or agent wherein the same fails to comply with this chapter.

1. Reinforcing Steel or Structural Framework. Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the Building Official.
2. Foundation Inspection. To be made after trenches are excavated and forms erected and when all materials for the foundation are delivered on the job. Where concrete from a central mixing plant (commonly termed "transit mixed") is to be used, materials need not be on the job.
3. Frame Inspection. To be made after the roof, all framing, fire blocking, and bracing are in place and all pipes, chimneys, and vents are complete.

4. Mechanical Inspection. To be made before concealment or use.
5. Plumbing Inspection. To be made before concealment or use.
6. Electrical Inspection. To be made before concealment or use.
7. Lath and/or Wallboard Inspection. To be made after all lathing and/or wallboard, interior and exterior, is in place; but before any plastering is applied or before wallboard joints and fasteners are taped and finished.
8. Other Inspections. In addition to the required inspections specified above, the Building Official may make or require any other inspections of any construction or work to ascertain compliance with the provisions of this chapter and other laws which are enforced by the Building Official.
9. Reinspections. Reinspections, and fees therefor, may be required as follows:
 - A. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is required is not complete or when corrections called for are not made.
 - B. This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this chapter, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.
 - C. Reinspection fees may be assessed when the permit card is not properly posted on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official.
 - D. To obtain a reinspection the applicant shall file an application therefor in writing upon a form furnished for that purpose, and pay the reinspection fee, if any.
 - E. In instances where reinspection fees have been assessed no additional inspection of the work will be performed until the required fees have been paid.
10. Final Inspection. To be made after work is completed and/or the building ready for occupancy.

155.26 MAINTENANCE. All buildings or structures both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this chapter in a building or structure when erected, altered, or repaired, shall be maintained in good working order. The owner or designated agent shall be responsible for the maintenance of buildings and structures. For the purpose of determining compliance with this section the Building Official may cause any structure to be reinspected.

155.27 SPECIAL INSPECTIONS. In addition to the inspections to be made as specified in Section 155.25, the owner or agent shall employ a special inspector who shall be present at all times during construction on the following types of work:

1. Concrete. On concrete work when the structural design is based on compressive strength of concrete in excess of 2,000 p.s.i.

2. Masonry. Masonry work shall have special inspection when required in the Uniform Building Code.
3. Welding. On all structural welding.
4. Reinforced Gypsum Concrete. When cast-in-place Class B reinforced gypsum concrete is being mixed or deposited.
5. Special Cases. On special construction or work involving unusual hazards or requiring constant inspection.
6. Exception. The Building Official may waive the requirement for the employment of a special inspector if the Building Official finds that the construction or work is such that no unusual hazard exists.

155.28 SPECIAL INSPECTOR. The special inspector shall be a qualified person approved by the Building Official. The special inspector shall furnish continuous inspection on the construction and work requiring the special inspector's employment. The special inspector shall report to the Building Official in writing, noting all ordinance violations and other information as required.

155.29 APPROVED FABRICATORS. Special inspections required by Section 155.27 and elsewhere in this chapter shall not be required where the work is done on the premises of a fabricator approved by the Building Official to perform such work without special inspection. The certificate of approval shall be subject to revocation by the Building Official if it is found that any work done pursuant to the approval is in violation of this chapter.

155.30 REQUEST FOR INSPECTION. The Building Official may require that every request for inspection be filed at least one day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Official.

155.31 ACCESS. It shall be the duty of the person requesting inspection to provide access to and means for proper inspection. The Building Official shall not be liable for any expense entailed in the removal or replacement of any material required to allow the inspection.

155.32 POWER, FUEL AND WATER SUPPLY CONNECTIONS. Systems and/or equipment regulated by this chapter shall not be connected to the power, fuel or water supply until authorized by the Building Official, except that this section shall not be considered to prohibit the operation of any equipment installed to replace existing equipment serving an occupied portion of a building in the event a request for inspection of such equipment has been filed with the Building Official not more than forty-eight (48) hours after such replacement work is completed and before any portion of such equipment is concealed by any permanent portion of the building.

155.33 CERTIFICATE OF OCCUPANCY. No building or structure for which a certificate of occupancy is required by the Iowa State Building Code Administration Section shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the Building Official has issued a certificate of occupancy therefor as provided herein.

(Code of Iowa, Sec. 103A.19[4])

1. Change in Use. Changes in the character or use of a building shall not be made except as specified in the Uniform Building Code adopted by this chapter.

2. Certificate Issued. After final inspection when it is found that the building or structure complies with the provisions of this chapter, the Building Official shall issue a certificate of occupancy which shall contain the following:
 - A. The building permit number.
 - B. The address of the building.
 - C. The name and address of the owner.
 - D. A description of that portion of the building for which the certificate is issued.
 - E. A statement that the described portion of the building complies with the requirements of this chapter for group and division of occupancy and the use for which the proposed occupancy is classified.
 - F. The name of the Building Official.
3. Temporary Certificate. A temporary certificate of occupancy may be issued by the Building Official for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.
4. Posting. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official.

155.34 VIOLATIONS. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter.

155.35 PENALTY. Any person violating any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.

[The next page is 875]

CHAPTER 156

UNIFORM FIRE CODE

156.01 Adoption of Uniform Fire Code
156.02 Enforcement
156.03 Definition
156.04 Amendments to Uniform Fire Code

156.05 Appeals
156.06 New Materials, Processes or Occupancies Which
May Require Permits
156.07 Penalties

156.01 ADOPTION OF UNIFORM FIRE CODE. There is hereby adopted by the City for the purpose of prescribing the regulations governing conditions hazardous to life and property from fire or explosion, that certain Code and Standards known as the Uniform Fire Code, including Appendix Chapters thereto, and the Uniform Fire Code Standards published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 1997 editions thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended by Section 156.04, of which Code and Standards not less than three (3) copies have been and are now on file in the office of the Clerk and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect the provisions thereof shall be controlling within the limits of the City.

156.02 ENFORCEMENT. The Uniform Fire Code shall be enforced by the Fire Department of the City under the supervision of the Chief of the Fire Department. The Fire Chief may detail such members of the Fire Department as inspectors as shall from time to time be necessary. The Fire Chief shall recommend to the City Manager the employment of technical inspectors who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and non-members of the Fire Department and appointments made after examination shall be for an indefinite term.

156.03 DEFINITION. Whenever the word “jurisdiction” is used in the Uniform Fire Code, it refers to the City.

156.04 AMENDMENTS TO UNIFORM FIRE CODE. The Uniform Fire Code is amended and changed in the following respects: Section 9.108, page 24, is amended as follows: The definition of fireworks is amended to delete and words “sparklers” and “snakes” as being included in the definition of “fireworks” and the sale and use of them is permitted.

156.05 APPEALS. Whenever the Fire Chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the Council within thirty (30) days after the date of the decision appealed.

156.06 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH MAY REQUIRE PERMITS. The City Manager and the Fire Chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now

enumerated in the Fire Code. The City Manager shall post such list in a conspicuous place in the City Manager's office and distribute copies thereof to interested persons.

156.07 PENALTIES. Any person who violates any of the provisions of this Code or Standards hereby adopted or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds, in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction, within the time fixed herein, shall severally and for each and every such violation and noncompliance, respectively, be in violation of this Code of Ordinances. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense. The application of the penalty shall not be held to prevent the enforced removal of prohibited conditions.

[The next page is 885]

CHAPTER 157

PROPERTY MAINTENANCE CODE

157.01 Findings and Declaration of Policy	157.14 Janitorial Service
157.02 Purpose	157.15 Enforcement
157.03 Definitions	157.16 General Administrative Provisions
157.04 Applicability	157.17 Result of Hearing
157.05 Higher Standard to Prevail	157.18 Right to Appeal
157.06 Compliance with Other Ordinances	157.19 Failure to Comply
157.07 Maintenance of Exterior of Premises	157.20 Costs
157.08 Storage of Commercial and Industrial Material	157.21 Notice
157.09 Landscaping	157.22 Additional Powers of the Public Officer
157.10 Reconstructed Walls and Sidings	157.23 Standards
157.11 General Maintenance	157.24 Other Remedies
157.12 Structural and General Maintenance	157.25 Emergencies
157.13 Removal of Garbage	157.26 Penalty

157.01 FINDINGS AND DECLARATION OF POLICY. It is hereby found and declared that there exist in the City structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance, or further that such conditions, including but not limited to structural deterioration, lack of maintenance and appearance of exterior of premises, infestation, lack of essential heating, plumbing, storage or refrigeration equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, unsanitary conditions and overcrowding, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the City. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same, and that by reason of timely regulations and restrictions as herein contained, the growth of slums and blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced and the public health, safety and welfare protected and fostered.

157.02 PURPOSE. The purpose of this chapter is to protect the public health, safety, morals, and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential and nonresidential premises, to establish minimum standards governing utilities, facilities and other physical components and conditions essential to make the aforesaid facilities fit for human habitation, occupancy and use; to fix certain responsibilities and duties upon owner and operators, and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for inspection of residential and nonresidential premises; to fix penalties for the violations of this chapter; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

157.03 DEFINITIONS. The following terms wherever used herein or referred to in this chapter shall have the respective meanings assigned to them unless a different meaning

clearly appears from the context; all definitions of the Uniform Building Code, hereafter referred to as the “Code,” are hereby included by reference.

1. “Deterioration” means the condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.
2. “Exposed to public view” means any premises or any part thereof or any building, or any part thereof, which may be lawfully viewed by the public.
3. “Exterior of the premises” means the open space on the premises outside of any building thereon.
4. “Extermination” means the control and elimination of insects, rodents and vermin.
5. “Garbage” means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. (See also “refuse” and “rubbish.”)
6. “Habitable rooms” means rooms used or designed for use by one or more persons for living or sleeping or cooking and eating, but not including bathrooms, laundries, serving and storage pantries. Corridors, foyers, vestibules, cellars, heater rooms, boiler rooms, utility rooms and other rooms or spaces that are not used frequently or for an extended period of time or that have less than 50 square feet of superficial floor area are not considered as habitable rooms.
7. “Infestation” means the presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.
8. “Mixed occupancy” means any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses or used as a hotel.
9. “Nuisance” means:
 - A. Any public nuisance as defined by statute or ordinance.
 - B. Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building or upon an occupied lot. This includes, but is not limited to: abandoned wells, shafts, basements, excavations, abandoned iceboxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, poison oak or poison sumac which may prove hazardous for inquisitive minors.
 - C. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
 - D. Insufficient ventilation or illumination in violation of this chapter.
 - E. Inadequate or unsanitary sewage or plumbing facilities in violation of this chapter.
 - F. Unsanitary conditions or anything offensive to the senses or dangerous to health, in violation of this chapter.

- G. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.
- H. Fire hazards.
10. "Operator" means any person who has charge, care or control of a dwelling or premises or a part thereof, whether with or without the knowledge and consent of the owner.
11. "Owner" means any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof; or shall have charge, care or control of any dwelling units as owner or as executor, executrix, administrator, administratrix, trustee, receiver, or guardian of the estate, or as a mortgagee in possession regardless of how such possession was obtained. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
12. "Parties in interest" means all individuals, associations and corporations who have interests of record in a building and any who are in actual possession thereof.
13. "Premises" means a lot, plot or parcel of land including the buildings or structures thereon.
14. "Public authority" means any officer who is in charge of any department or branch of the government of the City, County or State relating to health, fire, building regulations or to other activities concerning buildings in the City.
15. "Public Officer" means the City Manager.
16. "Refuse" means all putrescible and non-putrescible solid waste (except body wastes), including but not limited to: garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes. (See also "garbage" and "rubbish.")
17. "Rubbish" means non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials. (See also "garbage" and "refuse.")

157.04 APPLICABILITY. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business, or industrial occupancy shall comply with the provisions of this chapter, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this chapter, and irrespective of any permits or licenses which shall have been issued for the use or occupancy of the building or premises for the construction or repair of the building, or for the installation or repair of equipment or facilities prior to the effective date of this chapter. This chapter shall also apply to mobile home parks.

157.05 HIGHER STANDARD TO PREVAIL. In any case where the provisions of this chapter impose a higher standard than set forth in any other local ordinance, or under the laws of the State, then the standards as set forth herein shall prevail, but if the provisions of this

chapter impose a lower standard than any other local ordinances or of the laws of the State, then the higher standard contained in any such other ordinances or law shall prevail.

157.06 COMPLIANCE WITH OTHER ORDINANCES. No license or permit or other certification of compliance with this chapter shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises, nor shall any provision herein relieve any owner, operator or occupant from complying with any such other provision, nor any official of the City from enforcing any such other provision.

157.07 MAINTENANCE OF EXTERIOR OF PREMISES. The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, and debris.
2. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
3. Loose and overhanging objects, and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
4. Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow, and excretion of pets and other animals on paths, walks, driveway, parking lots and parking areas, and other parts of the premises which are accessible to holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery. This paragraph does not apply to single-family dwellings.
5. Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.
6. Sources of infestation.
7. Foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.
8. Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects, and so maintained as to capably perform at all times the functions for which they were designed. Chimneys, flues, gas vents or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight, and capable of withstanding the action of flue gases.
9. Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railing properly designed and maintained to minimize the hazard of

falling, and the same shall be kept structurally sound, in good repair, and free from defects.

10. The exterior of the premises, the exterior of structures and the condition of accessory structure shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property.

157.08 STORAGE OF COMMERCIAL AND INDUSTRIAL MATERIAL. There shall not be stored or used at a location visible from the sidewalk, street or other public areas equipment and materials relating to commercial or industrial use unless permitted under the Zoning Ordinance for the premises.

157.09 LANDSCAPING. Premises with landscaping and lawns, hedges and bush shall be kept trimmed and from becoming overgrown and unsightly where exposed to public view and where the same constitute a blighting factor depreciating adjoining property.

157.10 RECONSTRUCTED WALLS AND SIDINGS. Reconstructed walls and sidings on nonresidential structures shall be of standard quality and appearance commensurate with the character of the properties in the same block and on both sides of the street on which the premises front, such that the materials used will not be of a kind that by their appearance under prevailing appraisal practices and standards will depreciate the values of the neighboring and adjoining premises as aforesaid.

157.11 GENERAL MAINTENANCE. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties protected from blighting influences.

157.12 STRUCTURAL AND GENERAL MAINTENANCE.

1. The outside building walls shall not have any holes, loose boards, or any broken, cracked or damaged finish which admits rain, cold air, dampness, rodents, insects or vermin.
2. Every dwelling shall be so maintained as to be weather- and water-tight.
3. Basements, cellar and crawl spaces shall be free of moisture resulting from seepage, dampness and shall be paved with stone or concrete not less than four (4) inches thick and maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks and other hazards.
4. All parts of the premises shall be maintained so as to prevent infestation.
5. All parts of the dwelling shall be kept in a clean and sanitary condition, free of nuisance, and free from health, safety and fire hazards.
6. All boards and wood, including floorboards, sub-floors, joists, bridging and all other boards in any interior or exterior floor, wall, roof or other part of the structure, shall be maintained to be free of cracks, termite damage or rot. Any damaged members shall be replaced.

157.13 REMOVAL OF GARBAGE. The owner or operator shall have the duty and responsibility of removing garbage. All accumulation of trash and debris shall be removed weekly from collection areas and trash chutes.

157.14 JANITORIAL SERVICE. In every building containing two or more dwelling units or rooming units, or combination thereof, the owner shall insure that the premises is free from filthy garbage, refuse and rubbish.

157.15 ENFORCEMENT. All inspections, regulations, enforcement and hearings on violations of the provisions of this chapter, unless expressly stated to the contrary, shall be under the direction and supervision of the Public Officer, who may appoint or designate such other local public officers or employees to perform duties may be necessary to the enforcement of this chapter, including the making of inspections and holding of hearings.

157.16 GENERAL ADMINISTRATIVE PROVISIONS. Whenever a complaint is filed with a Public Officer by a public authority or by a resident of the City charging that any building is unfit for human habitation or occupancy or whenever it appears to the Public Officer that any building is unfit for human habitation, occupancy or use or that the continuing of any condition harmful to the health and safety of the occupants of said building and the general public of the City, the Public Officer shall, if a preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such building a complaint stating the charges and containing a notice that a hearing will be held before the Public Officer or designated agent at a place therein fixed not less than ten (10) days nor more than thirty (30) days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, to have an attorney and to give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts shall not be controlling in hearings before the Public Officer.

157.17 RESULT OF HEARING. If, after such notice and hearing, the Public Officer determines that the building under consideration is unfit for human habitation or occupancy or use, the Public Officer shall state in writing findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof and parties in interest an order:

1. Requiring the repair, alteration or improvement of the said building to be made by the owner, within a reasonable time, which time shall be set forth in the order, or at the option of the owner, to vacate or have the said building vacated and closed within the time set forth in the order; or
2. If the building is in such a condition as to make it dangerous to the health and safety of persons on or near the premises, and the owner fails to repair, alter improve the said building within the time specified in the order, then the owner shall be required to remove or demolish the said building within a reasonable time as specified in the said order of removal.

157.18 RIGHT TO APPEAL. If after such notice and hearing the person notified disagrees with the decision of the Public Officer, then such person shall have the right of appeal to the Council within fourteen (14) days after notice of order to repair or demolish. The Council may affirm, reverse or modify the decision of the Public Officer.

157.19 FAILURE TO COMPLY. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the Public Officer may cause such building to be repaired, altered or improved, or to be vacated and closed. The Public Officer may cause to be posted, on the main entrance of any building so closed, a placard with the following words: *This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful.* If the owner fails to comply with an order to remove or demolish the building, the Public Officer may cause such building to be removed or demolished, or may contract for the same after calling for bids.

157.20 COSTS. The owner of the property where the Public Officer had a building removed or demolished shall be liable for all costs incurred by the Public Officer on behalf of the City relating to such removal or demolition. The City Attorney shall take steps to collect such costs and to protect the City's interests in collecting such costs. All such costs may be certified to the County Treasurer for collection and collected with and in the same manner as general property taxes.

157.21 NOTICE. Complaints, orders and notices issued by the Public Officer shall be served personally or by registered mail. If the person to be served cannot be found, in the exercise of reasonable diligence, and the Public Officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the City. A copy of such complaint, notice or order shall be posted in a conspicuous place on the premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall be duly recorded or logged for record with the County Recorder.

157.22 ADDITIONAL POWERS OF THE PUBLIC OFFICER. The Public Officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

1. To investigate the building conditions in the City in order to determine which buildings therein are unfit for human habitation or occupancy or use.
2. To administer oaths, affirmation, examine witnesses and receive evidence.
3. To enter upon premises for the purpose of making examination, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession and provided that any entrance without the permission of the occupant shall be consistent with the rights of the owners and occupants. Where appropriate, a court order may be sought to permit entry.
4. To appoint and fix the duties of officers and employees to carry out the purposes of this chapter.

157.23 STANDARDS. The Public Officer may determine that a building is unfit for human occupancy if the Public Officer finds that conditions are dangerous or injurious to health or safety, including fire hazards, danger of accidents, lack of adequate ventilation, light or sanitary facilities, disrepair, structural defects or uncleanliness.

157.24 OTHER REMEDIES. In addition to removal or demolition of a building, the Public Officer may order necessary repairs or improvements to be made by the owner.

157.25 EMERGENCIES. The Public Officer may take immediate action to prevent possible injury, damage to health or death, in an emergency, without previous notice. Such action may include evacuation of a building or emergency repair. The owners and occupants of the building shall be notified as soon as possible.

157.26 PENALTY. Any person violating any provision of this chapter shall be in violation of this Code of Ordinances. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

[The next page is 915]

CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose	160.14 Administration
160.02 Definitions	160.15 Flood Plain Development Permit Required
160.03 Lands to Which Chapter Applies; Establishment of Official Flood Plain Zoning Map	160.16 Application for Permit
160.04 Rules for Interpretation of District Boundaries	160.17 Action on Permit Application
160.05 Compliance	160.18 Construction and Use to Be as Provided in Application and Plans
160.06 Abrogation and Greater Restrictions	160.19 Conditional Uses, Appeals and Variances
160.07 Interpretation	160.20 Factors Upon Which the Decision to Grant Variances Is Based
160.08 Warning and Disclaimer of Liability	160.21 Conditions Attached to Variances
160.09 Establishment of Zoning (Overlay) Districts	160.22 Appeals to the Court
160.10 Floodway (Overlay) District – FW	160.23 Nonconforming Uses
160.11 Floodway Fringe (Overlay) District – FF	160.24 Amendments
160.12 General Flood Plain (Overlay) District – FP	
160.13 Shallow Flooding (Overlay) District – SF	

160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Reserve sufficient flood plain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
2. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
4. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Base flood” means the flood having one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.
14. “Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.
15. “Floodway” means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and

discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

16. “Floodway fringe” means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. “Historic structure” means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.11(4)(A); and

B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 100-year flood level; and

D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on

which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. "100-Year Flood" means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. "Recreational vehicle" means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. "Special flood hazard area" means the land within a community subject to the "100-year flood." This land is identified as Zone A on the Flood Insurance Rate Map.

24. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either (i) before the "start of construction" of the improvement, or

(ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after the effective date of the Flood Insurance Rate Map, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. “Variance” means a grant of relief by a community from the terms of the flood plain management regulations.

29. “Violation” means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. This chapter shall apply to all lands within the jurisdiction of the City shown on the Flood Boundary and Floodway Map to be within the 100-year flood boundaries. The Flood Boundary and Floodway Map for the City, prepared by the Federal Emergency Agency of the Federal Insurance Administration, and consisting of four sheets which include an Index and Community Panels numbers 190219 – 0001B, 0002B and 0003B, effective July 2, 1981, is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and Flood Insurance Rate Map, consisting of four sheets which include an Index and Community Panels numbered 190219 – 0001B, 0002B and 0003B, effective July 2, 1981, all prepared by the Federal Emergency Agency, are also declared to be a part of this chapter. All of the above documents are on file in the office of the Clerk.

160.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. The boundaries of the zoning district areas shall be determined by scaling distances on the Official Flood Plain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the City Engineer shall make the necessary interpretation. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

160.05 COMPLIANCE. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

160.06 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Flood Plain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.09 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The flood plain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway District (FW)
2. Floodway Fringe District (FF)
3. General Flood Plain District (FP)
4. Shallow Flooding District (SF).

The boundaries are as shown on the Official Flood Plain Zoning Map. Within these districts all uses not allowed as permitted uses or permissible as conditional uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

160.10 FLOODWAY (OVERLAY) DISTRICT - FW.

1. Permitted Uses. The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstruction, the storage of material or equipment, excavation or alteration of a watercourse.
 - A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
 - C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - D. Residential uses such as lawns, gardens, parking areas and play areas.
 - E. Such other open-space uses similar in nature to the above uses.
2. Conditional Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment, excavation or alteration of a watercourse may be permitted only upon issuance of a conditional use permit by the

Board of Adjustment as provided for in Section 160.19. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

- A. Uses or structures accessory to open-space uses.
 - B. Circuses, carnivals, and similar transient amusement enterprises.
 - C. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards.
 - D. Extraction of sands, gravel, and other materials.
 - E. Marinas, boat rentals, docks, piers, and wharves.
 - F. Utility transmission lines and underground pipelines.
 - G. Other uses similar in nature to uses described in subsection 1 and in this subsection which are consistent with the provisions of subsection 3 and the general spirit and purpose of this chapter.
3. Performance Standards. All Floodway District uses allowed as a permitted or conditional use shall meet the following standards:
- A. No use shall be permitted in the Floodway District that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - B. All uses within the Floodway District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
 - C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other facility or system.
 - D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 - E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 - F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
 - G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.11 FLOODWAY FRINGE (OVERLAY) DISTRICT - FF. All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All structures shall:
 - A. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure.
 - B. Use construction materials and utility equipment that are resistant to flood damage.
 - C. Use construction methods and practices that will minimize flood damage.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the Administrator.
4. All new and substantially improved structures.
 - A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-Built Homes.

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water

supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Flood Plain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.

- B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
12. Recreational Vehicles.
- A. Recreational vehicles are exempt from the requirements of Section 160.11(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and
 - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.11(5) of this chapter regarding anchoring and elevation of factory-built homes.
13. Pipeline river and stream crossings shall be buried in the stream bed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

160.12 GENERAL FLOOD PLAIN (OVERLAY) DISTRICT - FP.

1. Permitted Uses. The following uses shall be permitted within the General Flood Plain District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse.
- A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - B. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips.
 - C. Private and public recreation uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - D. Residential uses such as lawns, gardens, parking areas and play areas.
2. Conditional Uses. Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the Board of Adjustment as provided for in Section 160.19. All such uses shall be reviewed by the Department of Natural Resources to determine

(i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100-year flood level. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

3. Performance Standards.

A. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 160.10).

B. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe (Overlay) District (Section 160.11).

160.13 SHALLOW FLOODING (OVERLAY) DISTRICT - SF. All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District. The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the number of feet as specified on the Flood Insurance Rate Map (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.
2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the elevation as specified on the Flood Insurance Rate Map.

160.14 ADMINISTRATION. The Zoning Administrator shall administer and enforce this chapter and will herein be referred to as the Administrator. The duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State or local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been flood proofed.
4. Notify adjacent communities and/or countries and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

5. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.
6. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
7. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
8. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the Council of potential conflicts.

160.15 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.16 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information.

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use or occupancy for which the proposed work is intended.
4. Elevation of the 100-year flood.
5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.17 ACTION ON PERMIT APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

160.18 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement,

or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.19 CONDITIONAL USES, APPEALS AND VARIANCES. The Board of Adjustment shall hear and decide (i) applications for conditional uses upon which the Board is authorized to pass under this chapter; (ii) appeals, and (iii) requests for variances to the provisions of this chapter; and shall take any other action which is required of the Board.

1. Conditional Uses. Requests for conditional uses shall be submitted to the Administrator, who shall forward such to the Board of Adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the Board of Adjustment.

2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variances. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood

insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal, an application for a conditional use or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 160.21.

160.20 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the service provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternate locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
13. Such other factors which are relevant to the purpose of this chapter.

160.21 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation on periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
5. Flood proofing measures designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.22 APPEALS TO THE COURT. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

160.23 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter.

2. Except as provided in subsection B above, any use which has been permitted as a conditional use or variance shall be considered a conforming use.

160.24 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

[The next page is 951]

CHAPTER 165

ZONING REGULATIONS

EDITOR'S NOTE

Ordinance No. 777 entitled "Zoning Regulations Ordinance, City of Clarinda, Iowa, 1998" adopted August 25, 1998, and amendments thereto are a part of this Code of Ordinances contained in a separate volume and are specifically saved from repeal and are in full force and effect. The following ordinances have been adopted amending Ordinance No. 777.

ORDINANCE	ADOPTED	SUBJECT
785	May 25, 1999	Official Zoning Map
792	February 8, 2000	Rezoning from R-1 to C-1
793	April 11, 2000	Rezoning from Ag to R-1
805	June 25, 2002	Rezoning from R-1 to R-2
806	June 25, 2002	Rezoning from C-1 to R-2
807	September 24, 2002	Rezoning from C-2 to I-1
808	September 24, 2002	Rezoning from C-2 to R-1
817	January 6, 2004	Nonconforming Structures and Uses
823	August 10, 2004	Rezoning from R-3 to C-1
824	August 10, 2004	Rezoning to R-2
829	February 9, 2006	Rezoning from C-1 to I-1 and from R-1 to I-1
844	November 20, 2008	Rezoning from C-1 to I-1 and from R-1 to I-1
847	January 22, 2009	Rezoning from C-2 to I-2
853	February 25, 2010	Rezoning from AG to I-1

[The next page is 965]

CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Purpose	166.28 Traffic Circulation
166.02 Definitions	166.29 Dead-end Streets Prohibited
166.03 Application of Regulations; Area	166.30 Cul-de-sacs
166.04 Application of Regulations; Land Divisions	166.31 Half Streets
166.05 Agricultural Land Exemption	166.32 Angle of Intersection
166.06 Division of Platted Lots	166.33 Street Jogs
166.07 Approvals Necessary	166.34 Street Grades
166.08 Building Permits and Utility Connections Prohibited	166.35 Vertical Sight Distances
166.09 Improvements to be Completed	166.36 Horizontal Sign Distances
166.10 Planning Conference	166.37 Pedestrian Ways
166.11 Finding of the Planning Conference	166.38 Alleys
166.12 Preliminary Plat	166.39 Standard Right-of-way Widths
166.13 Form of Preliminary Plat	166.40 Block Length
166.14 Review and Approval of Preliminary Plat	166.41 Block Width
166.15 Council Approval of the Preliminary Plat	166.42 Very Large Lots and Blocks
166.16 Effect of Approval of the Preliminary Plat	166.43 Minimum Lot Dimensions
166.17 Large Development Staging Procedure	166.44 Corner Lots Wider
166.18 Fees	166.45 Side Lines Perpendicular
166.19 Approval of Improvement Plans	166.46 Double Frontage
166.20 Final Plat Filing	166.47 Street Frontage
166.21 Form of Final Plat	166.48 Reversed Frontages and Key Lots
166.22 Action by the Commission	166.49 Septic Tanks
166.23 Council Action	166.50 Utility Easements
166.24 Bonding Incomplete Improvements	166.51 Drainage Easements
166.25 Filing of Record	166.52 Improvements
166.26 Streets Must Conform with General Plan	166.53 Modification of Requirements
166.27 Continuation of Existing Streets	166.54 Enforcement

166.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City.

166.02 DEFINITIONS. For use in this chapter, the following terms or words are defined.

1. “Alley” means a minor way, dedicated to the public use, which is used primarily for vehicular access to the back or the side of properties otherwise abutting on a street.
2. “Block” means a piece or parcel of land entirely surrounded by public highways, streets, streams, railroad right-of-way, parks, etc., or a combination thereof.
3. “Building line” means a line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected.
4. “Commission” or “Planning Commission” refers to the Planning and Zoning Commission of the City.
5. “Cul-de-sac” means a minor street having one end open to traffic and permanently terminated by a vehicular turnaround.
6. “Days” refers to calendar days.

7. “Developer” means the owner or agent under legal authority of the owner or owners who undertake to cause a parcel of land to be designed, constructed, and recorded as a subdivision. This term may be used interchangeably with the term “subdivider.”
8. “Easement” means a grant by the property owner, to the public, a corporation or persons, of the use of a parcel of land for a specific purpose.
9. “Final plat” means a drawing to engineering accuracy and containing the items specified by these regulations indicating the layout of lots, blocks and public ways in a completed and improved subdivision along with legal papers required for recording.
10. “General plan” means the plan or series of plans for the future development of the City and approved, as may be required, as the guide for future development. Such plan may alternatively be called by descriptive terms such as a master plan, a comprehensive plan, or a development plan.
11. “Improvements” means changes and additions to land necessary to prepare it for building sites, including street paving and curbing, grading, monuments, drainage ways, sewers, fire hydrants, water mains, sidewalks, pedestrian ways and other public works and appurtenances.
12. “Lot” means a portion of a subdivision, or other parcel of land, intended as a unit for transfer or for development.
13. “Pedestrian way” means a right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets or properties.
14. “Plat” means a map drawn to scale from an accurate survey and including items set forth herein along with all certificates and statements required herein and by statute, for the purpose of recording as a subdivision of land. Without modifying adjectives it refers to land subdivision documents which have been officially recorded. In appropriate context a plat may refer to the land represented by a recorded plat and may be synonymous with the word “subdivision.” It may also be used as a verb referring to the act of preparing a plat.
15. “Preliminary plat” means a drawing with supporting documents which represents a proposal upon which a final plat is to be based. A preliminary plat is not intended as a document to be filed of record.
16. “Replat, resubdivision” means a plat representing land which has previously been included in a recorded plat.
17. “Street” means a right-of-way, dedicated to public use, which affords a primary means of access to the abutting property.
18. “Street, collector” means a street which carries traffic from a local street to a major street.
19. “Street, local” means a street which is used primarily for access to the abutting properties.
20. “Street, major” means a street of considerable continuity connecting various sections of the City, or a street designated as a major street on the major street plan of the City.

21. "Street, service" means a local street or frontage road which is approximately parallel to and adjacent to or part of a major street and provides access to the abutting properties and protection from through traffic.
22. "Subdivision" means a parcel of land which has been platted; the act of preparing a plat.
23. "Subdivider" means the person or firm causing a plat to be prepared.

All other terms used in these regulations shall have their normal meaning, except that terms common to engineering and surveying shall be used in their professional sense.

166.03 APPLICATION OF REGULATIONS; AREA. Any plat hereafter made or any subdivision or any part thereof lying within the limits of the City or pursuant to Section 354.9 of the *Code of Iowa* in unincorporated territory within an area extending two (2) miles beyond the City limits shall be prepared, presented for approval, approved and presented for recording as herein prescribed. Where the conditions imposed by any provision of these regulations upon the use of land are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, ordinance, resolution, rule, or regulations of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern. These regulations are enacted under the authority of and provide authorized additions to the provisions of Chapter 354 of the *Code of Iowa*.

166.04 APPLICATION OF REGULATIONS; LAND DIVISIONS. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into three or more lots, tracts or other division of land for the purpose of sale, transfer or of building development whether immediate or in the future including the resubdivision or replatting of land or lots. These regulations shall apply to each situation where there is a dedication of a street, alley, easement or land for other public uses. The creation of three (3) or more lots, tracts or parcels, any one of which is of less than ten (10) acres by successive divisions within five (5) years, shall constitute a subdivision. The above provisions shall be construed to limit the acceptance of deeds to right-of-way or land for other purposes by the Council or other agency of government when such acceptance is in the public interest and not for the purpose of circumventing these regulations.

166.05 AGRICULTURAL LAND EXEMPTION. The division of land for agricultural use into parcels, all of which are ten (10) acres or more in area and have 400 feet or more of street or road frontage and which do not involve the creation of any new street or road, easement or other dedication, shall be exempt from the requirements of these regulations, provided however, that the provision of applicable statutes and regulations are complied with.

166.06 DIVISION OF PLATTED LOTS. The division or consolidation of existing platted lots or parts of existing platted lots by description for the purpose of sale or development shall not be considered a subdivision within the scope of these regulations, provided however, that any existing platted lot containing in excess of 16,000 square feet which is to be divided into two (2) or more parcels intended as primary building sites or when such division involves a dedication to public use such division shall fall within the jurisdiction of these regulations. The division and sale of a minor portion of any parcel of land for the purpose of adding land to an adjoining building site when said adjoining parcel of

land constitutes more than fifty percent (50%) of the newly created building site shall not be counted as a division in determining the jurisdiction of these regulations.

166.07 APPROVALS NECESSARY. No plat or subdivision falling within the jurisdiction of these regulations shall be recorded or presented for recording under the provisions of Chapter 354 of the *Code of Iowa* until all provisions and approvals set forth herein have been met or obtained.

166.08 BUILDING PERMITS AND UTILITY CONNECTIONS PROHIBITED. No officer, employee or agent of the City shall issue any building permit, make any water or sewer connection, or issue any permit for any water or sewer connection for any building or buildings constructed or proposed to be constructed on land divided contrary to the provisions of these regulations. No officer, agent or employee of the City shall perform or cause to be performed any construction or maintenance upon any street or public way purported to be dedicated as a public street or public way by virtue of being shown on a plat, unless such plat shall have been approved as provided by these regulations. The above prohibitions shall not apply to any plat or dedication legally filed of record before the enactment by the City of Ordinance No. 623 dated or legally filed under the aforesaid ordinance.

166.09 IMPROVEMENTS TO BE COMPLETED. No final plat shall be approved for recording unless street and utility improvements, as set forth herein, necessary to serve the intended occupants of the subdivision have been completed in a satisfactory manner or other assurances, as provided herein, that such improvements will be completed are executed.

166.10 PLANNING CONFERENCE. Any owner, developer or agent wishing to subdivide a parcel of land shall contact the City Manager and arrange for a planning conference. This conference shall be for the purpose of determining the general requirements to be met in developing the subdivision. If the subdivision does not involve new streets or utilities the planning conference may be waived by the City Manager.

166.11 FINDING OF THE PLANNING CONFERENCE. The proceedings of the planning conference shall be formal and a record shall be kept. It shall be the responsibility of the subdivider to determine the areas of agreement among the conferees and the problems which must be explored further through individual conferences with departments charged with administering the provision of utilities, streets, drainage and other public facilities. During the conference it shall be the responsibility of the City Manager to aid the subdivider in determining the general features to be required in the subdivision. All agreements arrived at by the conferees shall be subject to ratification by the Planning Commission as a whole.

166.12 PRELIMINARY PLAT. After the subdivider has determined the general features to be required in the subdivision, the subdivider may proceed to cause a preliminary plat to be prepared. An application in writing for tentative approval of the preliminary plat, together with six (6) prints thereof, shall be filed with the City Manager at least two weeks before the meeting of the Commission at which the preliminary plat is to be acted upon. Scheduled meetings are the last Thursday of each month.

166.13 FORM OF PRELIMINARY PLAT. The preliminary plat shall be drawn to a scale of one hundred (100) feet to an inch, or larger scale as may be approved by the Commission and shall show the following information:

1. The proposed name of the subdivision.
2. North point, scale and date.
3. The names and addresses of the subdivider and of the certified engineer or certified surveyor.
4. The tract designation and other description according to the real estate records of the City or County Auditor and Recorder, also, designation of the proposed uses of land within the subdivision.
5. The boundary lines (accurate in scale) of the tract to be subdivided.
6. Contours with intervals of five (5) feet or less, referred to official City datum.
7. The names of adjacent subdivisions or the names recorded owners of adjoining parcels of unsubdivided land.
8. The location, widths, and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way, and other important features, such as section lines, political subdivision or corporation lines, and school district boundaries.
9. Existing sewers, water mains, culverts or other underground structures within the tract and immediately adjacent thereto with pipe sizes, grades and locations indicated.
10. All parcels of land intended to be dedicated for public use or reserved in the deeds for the use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any.
11. The layout, names and widths of proposed streets, alleys, and easements.
12. A plan of proposed water distribution system, sanitary sewers and storm sewers showing pipe sizes and the location of valves, fire hydrants, fittings, and manholes.
13. The layout, numbers and scaled dimensions of proposed lots.
14. Indication of any portion of the subdivision for which a final plat is to be proposed when the subdivision is to be developed in stages.
15. Proposed covenants and restrictions.
16. Any proposed zoning changes.

166.14 REVIEW AND APPROVAL OF PRELIMINARY PLAT. Upon receipt of the preliminary plat, the City Manager shall cause copies thereof to be distributed to the representatives of any utility entities not under the control of the City Manager. The City Manager shall report the combined recommendations of the utility companies to the Commission. The City Manager may recommend approval or disapproval of the preliminary plat or any features thereof, but in expressing disapproval the reasons for such action shall be set forth in writing. The Commission shall approve or disapprove a preliminary plat within thirty (30) calendar days of receipt unless a longer time is agreed upon with the subdivider. Upon approval or disapproval by the Commission, the preliminary plat and the Commission's recommendation shall be transmitted to the Council within seven (7) calendar days.

166.15 COUNCIL APPROVAL OF THE PRELIMINARY PLAT. The Council shall approve or disapprove the preliminary plat not later than the second regular meeting following the receipt of the report from the Commission. The Council may give notice and hold public hearings.

166.16 EFFECT OF APPROVAL OF THE PRELIMINARY PLAT. Approval of the preliminary plat as set forth herein shall constitute authority to proceed with construction of the subdivision and preparation of the final plat subject to approval of detailed plans and specifications for improvements as set forth herein. The subdivision shall be constructed and the final plat prepared in conformity with the approved preliminary plat. Deviation from such approved preliminary plat shall require resubmission for approval. Approval of a preliminary plat shall not constitute authority to sell lots, record the plat, or authority to construct permanent buildings in reliance upon the preliminary plat layout.

166.17 LARGE DEVELOPMENT STAGING PROCEDURE. In order to discourage premature subdivision and uneconomic improvements, the following procedure is provided for large development plans.

1. When a developer or group of developers have in their control an area of land which they wish to plat, but of so large a size that the majority of the lots would take more than a year to sell, they shall cause to be prepared a preliminary plat for the entire area if required by the City Manager and/or Planning Commission.
2. On such preliminary plat successive development divisions shall be designated.
3. Upon approval of the preliminary plat the developer may cause a final plat to be prepared for one or more development divisions, provided the order of development allows for logical provision of streets and utilities.
4. Each development division shall be considered as a final plat and provisions of these regulations shall apply individually to each development division presented as a separate filing for record.

166.18 FEES. Upon delivery of the preliminary plat to the office of the City Manager for approval, the subdivider shall pay to the City Clerk a processing and engineering check fee in the amount of \$10.00 plus \$1.00 per each lot, with a minimum total of \$15.00. The processing fee shall be refundable if the plat is withdrawn before any actual checking is done on a preliminary plat. If any preliminary plat or final plat or any improvement plans or specifications are found to be in error and must be returned for revision, an additional processing fee shall be paid for each resubmission for approval. The City Clerk shall receipt stamp proof of the payment of fees upon the face of each copy of the preliminary plat. Such fees shall not be considered payment for supervision of construction.

166.19 APPROVAL OF IMPROVEMENT PLANS. After approval by the Council of the preliminary plat the subdivider may proceed to prepare and submit plans, profiles and specifications for improvements to the City Manager for approval. Such plans, profiles and specifications shall conform to standard practice of the City and shall be in essential conformity with the approved preliminary plat. The City Manager shall give approval in writing and no field changes shall be made without the written permission of the City Manager.

166.20 FINAL PLAT FILING. Within one year of the approval by the Council of preliminary plat, the subdivider shall file a final plat of the area covered by said preliminary plat in the office of the City Manager. Sufficient copies not to exceed six (6) shall be submitted to facilitate review and approvals. If a final plat is not filed within one year of the aforesaid approval of the preliminary plat, the latter shall be subject to review, revision or cancellation of approval by the Council.

166.21 FORM OF FINAL PLAT. A duplicate original shall be submitted for checking and signature and shall become a permanent public record upon recording. Duplicate originals may be submitted for signatures and may become the property of the subdivider. The plat shall conform to all applicable requirements of Chapter 354 of the *Code of Iowa* and the following requirements. The final plat shall portray the following information:

1. Name of subdivision, points of the compass, scale of the plat, name of subdivider, date and name, address and seal of the surveyor. Location of boundary lines, in relation to section, quarter section, all of which comprise a legal description of the property. All locations shall be tied to a land survey corner which has the approval of the County Engineer.
2. The lines of all streets and alleys and other lands to be dedicated with their widths and names shall conform to existing street name patterns.
3. All lot lines and dimensions and numbering of lots and blocks according to a uniform system. Statutory systems shall be complied with if applicable.
4. Indication of building lines with dimensions if such lines are desired.
5. Easements for any right-of-way provided for public use, drainage, services or utilities, showing dimensions and purpose.
6. All dimensions, both linear and angular, necessary for locating the lines of lots, tracts, or parcels of land, streets, alleys, easements and the boundaries of the subdivision. The linear dimensions are to be expressed in feet and decimals of feet. The plat shall show all curve data necessary to reconstruct on the ground all curvilinear boundaries and lines and radii of all rounded corners.
7. Closure. The perimeter and blocks of the plat shall close to an allowable unadjusted error of one in five thousand. Latitudes and departure computations shall be submitted. All lines in the plat shall meet this standard of accuracy.
8. The description, location and elevation of all benchmarks.
9. The description and location of all permanent monuments set in the subdivision.
10. Names in dotted lettering of adjacent plats with location of adjoining streets shown by dashed lines.
11. Legal description of the lands being subdivided.
12. Engineer's certificate and seal.
13. The following documents:
 - A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments

of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

B. Performance bond, if any.

C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

E. 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*.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

166.22 ACTION BY THE COMMISSION. The Commission shall consider the final plat no later than the regular meeting during the month following the month of filing and shall either approve or disapprove the plat. If the Commission finds that the final plat has been prepared in compliance with these regulations and in substantial compliance with the preliminary plat, such plat shall be approved. In the event of disapproval, specific points of variance with the aforesaid requirements shall be included in the record of the Commission and a copy shall be transmitted to the subdivider. The Planning Commission may approve final plats at a special meeting called in accordance with the rules and regulations of the Commission. Upon approval or disapproval, the Commission shall within ten (10) days transmit to the Council the final plat along with the report of the Commission.

166.23 COUNCIL ACTION. The Council shall consider the final plat along with the report of the Commission not later than the second regular meeting following the date of filing with the City Clerk. If the Council finds that the plat has been prepared in compliance with the preliminary plat, such final plat shall be approved. In the event of disapproval the record shall show the specific points on which the final plat varies from these regulations or the preliminary plat. The Council may give notice of and hold any public hearings.

166.24 BONDING INCOMPLETE IMPROVEMENTS. In lieu of final completion of the improvements required herein before approval of the final plat, the subdivider shall post a bond approved by the City Attorney and City Manager. Such bond shall insure to the City

that improvements will be completed by the subdivider within one year after approval by the City Council and shall be not less than 110% of the cost of the contractor's bid of completing the improvements as specified by these regulations, any ordinances, resolutions or regulations of the City, and by the plans and specifications as approved for the preliminary plat. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete said improvements. Failure of the Council to take action on the bond immediately shall not bar it from taking appropriate action within a reasonable time.

166.25 FILING OF RECORD. After the final plat has been approved and all signatures required herein have been affixed, the subdivider will deliver the plat and all necessary papers, as required by statute, to the County Recorder, who shall cause the same to be recorded as specified by statute, and show evidence of the recording to the City Clerk before the City shall recognize the plat as being in full force and effect. All filing fees shall be paid by the subdivider.

166.26 STREETS MUST CONFORM WITH GENERAL PLAN. The arrangement, character, extent, width, grade and location of all streets shall conform to the General Plan of the City and to any plans which may be adopted by the Commission or the Council.

166.27 CONTINUATION OF EXISTING STREETS. New streets shall normally continue as an extension of existing streets unless good planning indicates a different solution. Street patterns shall take into consideration access needed to develop adjoining properties and shall conform to topography so as to provide the best building sites. Sketches of a proposed street system for adjoining property may be required if it is owned or under the control of the subdivider. Street names shall take the name of existing streets on the same general alignment. New street names shall be approved by the City Council and not be so similar to existing names as to cause confusion.

166.28 TRAFFIC CIRCULATION. When possible, local service streets shall be planned so as to discourage through traffic and to conveniently channel traffic onto the collector and major streets.

166.29 DEAD-END STREETS PROHIBITED. Dead-end streets are prohibited, except that where the General Plan indicates a street is to continue past the subdivider's property, a temporary dead end may be allowed until such time as the street is continued.

166.30 CUL-DE-SACS. Cul-de-sacs will be permitted where topography and other conditions justify their use. They should normally be less than 300 feet in length, but in unusual situations may be permitted up to 500 feet in length. Every cul-de-sac shall have a turnaround at its closed end with right-of-way of 100 feet diameter for residential streets and 120 feet diameter for industrial or commercial access streets.

166.31 HALF STREETS. Half streets will normally be prohibited, except that they may be required to complete the remaining half of a street already dedicated or where the General Plan or other adopted plan indicates that the alignment of the street will center on the property line.

166.32 ANGLE OF INTERSECTION. Streets shall be laid out so as to intersect as nearly as possible at right angles except where topography and other conditions justify variations. The minimum angle of intersection of streets shall be 75 degrees.

166.33 STREET JOGS. Street jogs with centerline off-sets of less than 100 feet shall be avoided.

166.34 STREET GRADES. Street grades shall conform with the overall drainage pattern of the locality of the subdivision and shall fall within the minima and maxima as follows: major street – 7%; local and collector streets – 8%. No street grade shall be less than 0.5%.

166.35 VERTICAL SIGHT DISTANCES. Change of grade shall conform to current standards of the City for the type of street in question, provided that in no case shall there be constructed a sight distance of less than 100 feet measured four (4) feet above pavement surface at the ends of the tangent.

166.36 HORIZONTAL SIGN DISTANCES. A tangent at least 100 feet shall be introduced between reverse horizontal curves on collector and major streets. When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for collector streets and of such greater radii as the Commission shall determine for major streets and in other special cases.

166.37 PEDESTRIAN WAYS. Pedestrian ways may be required by the Commission so as to allow cross access for pedestrians in very long blocks. In general, blocks of 800 feet or more in length should have a pedestrian way near the center of the block.

166.38 ALLEYS. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage orientation. Dead-end alleys shall be prohibited unless there is provided a turnaround with a right-of-way diameter of 100 feet. Sharp changes in direction in alleys should be avoided. Where such changes cannot be avoided there shall be a corner cutoff with a minimum radius of 50 feet or equivalent chord.

166.39 STANDARD RIGHT-OF-WAY WIDTHS. For all streets, alleys and other thoroughfares hereafter dedicated and accepted, the minimum right-of-way widths shall not be less than the minimum dimensions for each classification of public way as follows:

1. Major Streets: 80 feet or as set forth in the General Plan or other plan adopted by the Planning Commission or the Council.
2. Collector Streets: 60 feet.
3. Local Service Streets: 60 feet except when adjacent to a railroad or major street with limitation of access, then the width may, if appropriate to the circumstance, be 50 feet.
4. Cul-de-sac: 60 feet with a 100-foot diameter turnaround at the closed end, provided; however, in industrial or commercial subdivisions, such turnaround shall be 120 feet in diameter.
5. Alleys: 20 feet.
6. Pedestrian ways: 10 feet.

For details of grades and pavement widths, see City Street Survey under the heading of Standard Specifications.

166.40 BLOCK LENGTH. Intersecting streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets and customary subdivision practice in the immediate area. Blocks shorter than 450 feet and longer than 1200 feet in residential districts should be avoided. Blocks longer than 600 feet should be avoided in business districts.

166.41 BLOCK WIDTH. The width of a block shall be sufficient to allow for two tiers of lots with alley or utility easement if required. Blocks intended for business or industrial use shall be of such width as may be best suited for the contemplated use of the property, taking into consideration the probable arrangement of parking and truck loading and maneuvering upon the property.

166.42 VERY LARGE LOTS AND BLOCKS. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extension of such streets may, at the direction of the Commission, be made a requirement of the plat.

166.43 MINIMUM LOT DIMENSIONS. The minimum width of residential lots shall be 70 feet for rectangular lots and 70 feet at the front building line for irregular lots with side lot lines radial to the street right-of-way line. The minimum depth of lots shall be 100 feet. In no case shall a lot contain less than 8,000 square feet of area. Lot sizes shall meet or exceed the requirement of the Zoning Ordinance as to lot size and shall as near as practical meet or exceed the typical lot size for existing building sites in the immediate vicinity. Each lot shall be a buildable site after taking into account all yard spaces required by the Zoning Ordinance. Excessive lot depth in relation to width shall be avoided. In general, the ratio of width to depth should be one to one and one-half.

166.44 CORNER LOTS WIDER. Corner lots in residential areas shall be enough wider than inside lots so as to allow an appropriate setback (25 feet) from both streets.

166.45 SIDE LINES PERPENDICULAR. Side lines of lots shall be approximately at right angles to straight street lines and radial to curved street lines.

166.46 DOUBLE FRONTAGE. Lots with street frontage at both front and rear shall be avoided.

166.47 STREET FRONTAGE. Each lot shall have frontage on a street. An alley shall not suffice as a sole means of access.

166.48 REVERSED FRONTAGES AND KEY LOTS. Reversed frontages at cross street intersections shall be avoided except where it will match existing development. Key lots, being those inside lots fronting on side streets, shall be avoided except where they are matching existing development and other lots are excessively deep. Key lots shall be prohibited where they disrupt utility or drainage easements. Reverse frontage and normal

corner lots when adjacent to a key lot shall have additional width to allow full front yard setbacks on both streets.

166.49 SEPTIC TANKS. In subdivisions where buildings are to be served by septic tanks, the size of lots shall be sufficiently large to accommodate adequate drainage fields. Standards set forth by the State Board of Health shall be met. No septic tanks shall be approved if an existing City sewer is available within 450 feet. Use of septic tanks requires approval of the City Manager.

166.50 UTILITY EASEMENTS. Utility easements shall be twelve (12) feet wide, falling half on adjoining lots along rear lot lines. They shall be planned for easy and continuous access for maintenance, shall be continuous through the block and shall connect as nearly in line as possible with adjoining easements. To facilitate the use of easements, rear lot lines in curvilinear platting shall form straight lines for as long a distance as feasible. Direction changes shall fall so that a side lot line will intersect the point of change so as to allow for guy wire easements to be located on lot lines. Side lot easements may be five (5) feet wide. Where topography dictates, the full width of an easement may fall on one lot.

166.51 DRAINAGE EASEMENTS. Drainage easements for storm sewers or open channels may be required where storm drainage cannot be practically carried under streets or on other rights-of-way. Open channel drainage easements may be required where there is evidence that the natural drainage for a large area traverses the subdivision. Drainage easements shall be sufficient in width so that motorized equipment may be used in their maintenance.

166.52 IMPROVEMENTS. Every subdivision shall contain normal improvements before acceptance or have such improvements assured by the posting of a bond or other device as set forth herein. Improvements shall include:

1. **Monuments.** Permanent monuments shall be set at each corner at the perimeter of the subdivision and at the corner of each block within the subdivision and at the corner of each lot. All monuments shall be constructed of reasonably permanent material, solidly embedded in the ground at least thirty (30) inches and capable of being detected by commonly used magnetic or electronic equipment. The registered land surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the registered land surveyor to the top of the monument. All monuments that are located at block corners shall be encased in a minimum of six (6) inches of concrete to a depth of thirty (30) inches.
2. **Grading of Lots.** When any building site is filled to a depth in excess of five (5) feet, said fill shall be laid down in six-inch layers and each layer shall be given six passes with a sheepsfoot roller with optimum moisture present or compaction to equal the bearing strength of the natural ground shall be met by Standard Proctor test or other test which may be approved by the City Manager.
3. **Storm Drainage.** Storm drainage shall be provided with sufficient capacity to handle all surface water traversing the subdivision. The design of waterways, pipes, culverts and catch basins shall conform with standard practice, specific plans and standard specifications of the City. Storm drainage systems are prohibited to be installed within the sanitary sewers.

4. Sanitary Sewers. Sanitary sewers shall be installed for service to each lot according to standard specifications of the City. The practicality of septic tank disposal shall be approved by the City before approval of lot sizes.
5. Water Supply. Water supply shall be completed to each lot in accordance with standard specifications of the City. Fire hydrants shall be installed in a pattern approved by the City Manager, the Water Superintendent, and the Fire Chief.
6. Grading. Grading shall be completed to official grade on all streets for the full width of the right-of-way and fills shall be compacted sufficiently to assure adequate support for permanent paving, as set forth by City specifications.
7. Paving. Paving of a permanent type shall be completed on all streets in accordance with the standard specifications of the City and in conformity with any official street plans which may be adopted by the Commission or by the Council. Standard installations for sanitary sewer, storm drainage and water supply shall be installed before paving, even though such facilities cannot be connected with the City system at the time of approval of the plat.
8. Utility Services. All utility services, such as but not limited to electrical, telephone, natural gas and cable television, shall be buried in the right-of-way or easements recorded and all utility services shall be made available to each lot in such a manner as will eliminate the necessity for disturbing the street paving, curbs, gutters and drainage structures when connections are made.
9. Sidewalks. All sidewalks required by the City shall be completed in accordance with the standard specifications of the City.
10. Final Plans. Upon completion of construction of any such utilities or improvements, one set of reproducible tracings of complete as-built final plans, dated, signed and certified by the engineer in charge, shall be filed with the City Manager showing all features as actually installed including materials size, location, depth or elevation, numbers, ends of lines, connections, wyes, valves, storm sewer drains, inlets and all other pertinent information. There shall be no connections made to such utilities serving the subdivision until the foregoing has been complied with.

166.53 MODIFICATION OF REQUIREMENTS. The strict application of the terms of these regulations may be modified by the Council upon the recommendation of the Commission and City Manager in the event that it is found that any specific provision is impractical in its application to a specific parcel of land because of characteristics peculiar to said parcel and that the intent of these regulations will not be compromised.

166.54 ENFORCEMENT. The City Manager or other official designated by the City Manager shall be responsible for the enforcement of these regulations and to this end all employees and officials of the City shall report in writing to the enforcing official any violation or suspected violation of these regulations.

[The next page is 995]

CHAPTER 167

TALL STRUCTURES ZONING

167.01 Definitions

167.02 Airport Zones and Airspace Height Limitations

167.03 Use Restrictions

167.04 Lighting

167.05 Variances

167.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Airport” means the Clarinda Municipal Airport.
2. “Airport elevation” means the highest point of an airport’s usable landing area measured in feet above mean sea level, which elevation is established to be 992 feet.
3. “Airport hazard” means any structure or object of natural growth located on or in the vicinity of a public airport, or any use or land near such airport which obstructs the airspace required for the flight of the aircraft in landing or takeoff of aircraft.
4. “Airport primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
5. “Airspace height” means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
6. “Control zone” means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
7. “Instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
8. “Minimum descent altitude” means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
9. “Minimum en route altitude” means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
10. “Minimum obstruction clearance altitude” means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments

which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

11. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

12. “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

167.02 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. Horizontal Zone. The land lying under a horizontal plane one hundred fifty (150) feet above the established elevations, the perimeter of which is constructed by:

A. Swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of runways 13, 31 and 19 and connecting the adjacent arcs by lines tangent to those arcs.

B. Swinging arcs of ten thousand (10,000) feet radii from the center of each end of the primary surface of runway 1, and connecting the adjacent arcs by lines tangent to those arcs.

(NOTE: The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.)

No structure shall exceed one hundred and fifty (150) feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.

2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet to one (1) for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.

3. Approach Zone. The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

A. The inner edge of the approach surface is:

- (1) 250 feet wide for runways 13 and 31.
 - (2) 500 feet wide for runways 1 and 19.
- B. The outer edge of the approach zone is:
- (1) 1,250 feet for runways 13 and 31.
 - (2) 1,500 feet for runway 19.
 - (3) 3,500 feet for runway 1.
- C. The approach zone extends for a horizontal distance of:
- (1) 5,000 feet at a slope of 20 to 1 for runways 13, 31 and 19.
 - (2) 10,000 feet at a slope of 34 to 1 for runway 1.

No structure shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

4. **Transitional Zone.** The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. No structures shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.

5. **Descent/En Route Altitude.** No structure shall be erected in the County that raises the published minimum descent altitude or decision height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

167.03 USE RESTRICTIONS. Notwithstanding any other provisions of 167.02, no use may be made of land or water within the City in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

- 1. **Surface Lighting.** All lights or illumination used in conjunction with street parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.
- 2. **Visual Hazards.** No operation from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.
- 3. **Electronic Interference.** No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

167.04 LIGHTING. Notwithstanding the provisions of 167.03, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after the effective date of this chapter and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA

Advisory Circular 7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City, at its own expense, to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

167.05 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to Municipal Airport Manager or Aeronautics Director for an opinion as to the aeronautical effects of such a variance. If the Municipal Airport Manager or Aeronautics Director does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

CODE OF ORDINANCES

CITY OF CLARINDA, IOWA

TABLE OF CONTENTS

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES.....	1
CHAPTER 2 - CHARTER.....	9
CHAPTER 3 - BOUNDARIES.....	11
CHAPTER 4 - MUNICIPAL INFRACTIONS.....	13
CHAPTER 5 - OPERATING PROCEDURES.....	21
CHAPTER 6 - CITY ELECTIONS.....	31
CHAPTER 7 - FISCAL MANAGEMENT.....	35
CHAPTER 8 - INDUSTRIAL PROPERTY TAX EXEMPTIONS.....	39
CHAPTER 9 - URBAN REVITALIZATION.....	49
CHAPTER 10 - URBAN RENEWAL.....	51

ADMINISTRATION, BOARDS AND COMMISSIONS

CHAPTER 15 - MAYOR.....	85
CHAPTER 16 - MAYOR PRO TEM.....	91
CHAPTER 17 - CITY COUNCIL.....	93
CHAPTER 18 - CITY CLERK.....	101
CHAPTER 19 - CITY TREASURER.....	105
CHAPTER 20 - CITY ATTORNEY.....	107
CHAPTER 21 - CITY MANAGER.....	109
CHAPTER 22 - LIBRARY BOARD OF TRUSTEES.....	111

TABLE OF CONTENTS

ADMINISTRATION, BOARDS AND COMMISSIONS (CONTINUED)

CHAPTER 23 - PLANNING AND ZONING COMMISSION.....	115
CHAPTER 24 - HOSPITAL TRUSTEES	117
CHAPTER 25 - CITY TREE BOARD	119
CHAPTER 26 - LOW RENT HOUSING AGENCY BOARD OF COMMISSIONERS	121

POLICE, FIRE AND EMERGENCIES

CHAPTER 30 - POLICE DEPARTMENT	145
CHAPTER 35 - FIRE DEPARTMENT.....	151

PUBLIC OFFENSES

CHAPTER 40 - PUBLIC PEACE.....	185
CHAPTER 41 - PUBLIC HEALTH AND SAFETY	193
CHAPTER 42 - PUBLIC AND PRIVATE PROPERTY	201
CHAPTER 43 - DRUG PARAPHERNALIA.....	211
CHAPTER 45 - ALCOHOL CONSUMPTION AND INTOXICATION.....	235
CHAPTER 46 - MINORS.....	237

NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE.....	265
CHAPTER 51 - JUNK VEHICLES AND JUNK MACHINERY	275
CHAPTER 55 - ANIMAL PROTECTION AND CONTROL	301
CHAPTER 56 - DOG AND CAT LICENSES REQUIRED.....	311

TABLE OF CONTENTS

TRAFFIC AND VEHICLES

CHAPTER 60 - ADMINISTRATION OF TRAFFIC CODE.....	325
CHAPTER 61 - TRAFFIC CONTROL DEVICES	329
CHAPTER 62 - GENERAL TRAFFIC REGULATIONS	331
CHAPTER 63 - SPEED REGULATIONS.....	341
CHAPTER 64 - TURNING REGULATIONS.....	345
CHAPTER 65 - STOP OR YIELD REQUIRED	347
CHAPTER 66 - LOAD AND WEIGHT RESTRICTIONS.....	361
CHAPTER 67 - PEDESTRIANS.....	363
CHAPTER 68 - ONE-WAY TRAFFIC	365
CHAPTER 69 - PARKING REGULATIONS.....	367
CHAPTER 70 - TRAFFIC CODE ENFORCEMENT PROCEDURES	395
CHAPTER 75 - ALL-TERRAIN VEHICLES AND SNOWMOBILES	401
CHAPTER 76 - BICYCLE REGULATIONS	405
CHAPTER 77 - BICYCLE LICENSING	409
CHAPTER 78 - ROLLER SKATES, SKATEBOARDS AND IN-LINE SKATES.....	411
CHAPTER 80 - ABANDONED VEHICLES.....	421

WATER

CHAPTER 90 - WATER SERVICE SYSTEM.....	451
CHAPTER 91 - WATER METERS.....	463
CHAPTER 92 - WATER RATES	465
CHAPTER 93 - WATER LINE EXTENSIONS	473
CHAPTER 94 - WATER CONSERVATION	477

TABLE OF CONTENTS

SANITARY SEWER

CHAPTER 95 - SANITARY SEWER SYSTEM.....	495
CHAPTER 96 - BUILDING SEWERS AND CONNECTIONS.....	501
CHAPTER 97 - USE OF PUBLIC SEWERS.....	507
CHAPTER 98 - ON-SITE WASTEWATER SYSTEMS	511
CHAPTER 99 - SEWER SERVICE CHARGES.....	513
CHAPTER 100 - SEWER EXTENSIONS	515
CHAPTER 101 - STORM WATER DRAINAGE SYSTEM DISTRICT UTILITY	521

GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL.....	561
CHAPTER 106 - COLLECTION OF SOLID WASTE	571
CHAPTER 107 - YARD WASTE UTILITY.....	581

FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE.....	601
CHAPTER 111 - ELECTRIC FRANCHISE	607
CHAPTER 112 - TELEPHONE FRANCHISE	611
CHAPTER 115 - CEMETERY	675

REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - LIQUOR LICENSES AND WINE AND BEER PERMITS.....	701
CHAPTER 121 - CIGARETTE AND TOBACCO PERMITS.....	711
CHAPTER 122 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS	721
CHAPTER 123 - HOUSE MOVERS.....	731

TABLE OF CONTENTS

STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE	775
CHAPTER 136 - SIDEWALK REGULATIONS.....	781
CHAPTER 137 - VACATION AND DISPOSAL OF STREETS	789
CHAPTER 138 - STREET GRADES	791
CHAPTER 139 - NAMING OF STREETS	793
CHAPTER 140 - CONTROLLED ACCESS FACILITIES.....	795

BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - MANUFACTURED AND MOBILE HOMES	805
CHAPTER 150 - BUILDING NUMBERING	825
CHAPTER 151 - TREES.....	827
CHAPTER 155 - BUILDING CODE.....	851
CHAPTER 156 - UNIFORM FIRE CODE	875
CHAPTER 157 - PROPERTY MAINTENANCE CODE.....	885
CHAPTER 160 - FLOOD PLAIN REGULATIONS.....	915

ZONING AND SUBDIVISION

CHAPTER 165 - ZONING REGULATIONS	951
CHAPTER 166 - SUBDIVISION REGULATIONS	965
CHAPTER 167 - TALL STRUCTURES ZONING	995

TABLE OF CONTENTS

INDEX

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

SUGGESTED FORMS:
NOTICE TO ABATE NUISANCE 7

NOTICE OF REQUIRED SEWER CONNECTION..... 8
NOTICE OF HEARING ON REQUIRED SEWER CONNECTION 9
RESOLUTION AND ORDER..... 10