

CODE OF ORDINANCES
CITY OF HIAWATHA, IOWA
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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
1.03 City Powers
1.04 Indemnity
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1.06 Rules of Construction

1.07 Amendments
1.08 Catchlines and Notes
1.09 Altering Code
1.10 Standard Penalty
1.11 Severability

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Hiawatha, Iowa, 1996.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 Hiawatha, Iowa.
3. “Clerk” means the city clerk of Hiawatha, 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 Hiawatha, Iowa, 1996.
6. “Council” means the city council of Hiawatha, Iowa.
7. “County” means Linn County, Iowa.
8. “Measure” means an ordinance, amendment, resolution or motion.
9. “Month” means a calendar month.
10. “Oath” means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” are equivalent to the words “swear” and “sworn.”

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“Ordinances” means the ordinances of the City of Hiawatha, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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. “Preceding” and “following” mean next before and next after, respectively.
15. “Property” includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. “Property owner” means a person owning private property in the City as shown by the County Auditor’s plats of the City.
17. “Public place” includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. “Public property” means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. “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.
21. “State” means the State of Iowa.
22. “Statutes” or “laws” means the latest edition of the Code of Iowa, as amended.
23. “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.
24. “Writing” and “written” include printing, typing, lithographing, or other mode of representing words and letters.

25. “Year” means a calendar year.

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

(Code of Iowa, Sec. 364.1)

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

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

to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION. In the construction of the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender includes the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

1.07 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. Any changes that will affect this Code of Ordinances in any manner shall be made only after a public hearing is held on said changes.

(Code of Iowa, Sec. 380.2) (Ord. 428 - Dec. 97 Supp.)

1.08 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.

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

(Code of Iowa, Sec. 718.5)

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

(Ord. 884 – Dec. 17 Supp.)

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

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.

[The next page is 9]

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties
2.04 Number and Term of Council

2.05 Term of Mayor
2.06 Eligibility
2.07 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Hiawatha, Iowa.

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five (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 ELIGIBILITY. To be eligible to be elected to hold and retain the office of Council member or Mayor, a person must be at least 18 years old, reside in the City of Hiawatha and possess all the qualifications necessary to entitle the person to register to vote, as defined in Code of Iowa Section 39.3 Eligible Elector.

2.07 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)

(Sec. 2.06 and 2.07 – Ord. 842 – Oct. 15 Supp.)

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CHAPTER 3

BOUNDARIES

3.01 Corporate Limits

3.02 Voting Precincts

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

Beginning at the intersection of the centerline of Blairs Ferry Road and the east line of Tucker's First Addition to Hiawatha, Iowa, thence west along the centerline of said Blairs Ferry Road to the west right-of-way line of Center Point Road (Old Highway 150); thence Northwesterly along the westerly right-of-way line of Center Point Road to the north right-of-way line of Blairs Ferry Road; thence West along the north right-of-way line of Blairs Ferry Road to the east line of Auditors Plat No. 281; thence South to the centerline of Blairs Ferry Road; thence S88°40'05" along the centerline of Blairs Ferry Road 846 feet to a point; thence S00°06'05"W 6.97 feet to a point; thence S89°45'35"W 365.52 feet to a point; thence N87°44'20"W 94.13 feet to a point; thence S88°16'40" W 49.90 feet; thence S78°47'40" 66.62 feet; thence N88°34'20"W 136.88 feet; thence S87°45'25"W 42.07 feet; thence N01°14'25"E to the centerline of Blairs Ferry Road; thence West along the centerline of Blairs Ferry Road to a point which is 1,833.03 feet west of the east line of Auditor's Plat No. 281; thence N01°19'50"W 13.78 feet; thence S87°11'30"W 381.05 feet to the centerline of Blairs Ferry Road; thence west along the centerline of Blairs Ferry Road to the intersection of Blairs Ferry Road and the centerline of Nemiah Aquilla Miller Road; thence continuing on the centerline of said Blairs Ferry Road to the east line of Packingham's Addition to Linn County, Iowa; thence along the east line of said Packingham's Addition to the northeast corner of said Packingham's Addition; thence N88°41'21"W, 370.05 feet to a point; thence N0°22'48"W, 7.00 feet to a point; thence N88°41'21"W, 550.04 feet to a point; thence N0°00'11 "W, 375.40 feet to a point on the south line of the SW ¼ of Section 31-84-7; thence N0°18'32"E, 1065.63 feet to a point; thence S89°56'46"E, 82.60 feet to a point; thence N0°39'00"W, 264.00 feet to a point on the south line of the NE ¼ SW ¼ , Section 31-84-7; thence S89°50'54"W along said south line of the NE ¼ SW ¼ , to the east line of the former Chicago Rock Island and Pacific Railroad; thence N02°00'46"E along said east line, 699.55 feet to the SW Corner of Wolf Creek First Addition; thence S89°52'37"E along the south line of said Wolf Creek First Addition, 222.33 feet to the west right-of-way line of Wolf Creek Trail; thence SE-ly on an arc of 25.48 feet of an 800- foot radius curve to the left, having a chord distance of 25.47 feet, bearing S07°52'43"E; thence N81°12'32"E, 66.00 feet to the east right-of-way line of said road; thence S89°52'37"E along the south line of said First Addition, 289.55 feet to the SE Corner of Lot 5 of said First Addition; thence S00°00'59"W along

the west line of Country Estates Acres Second Addition and Country Estates Third Addition, both to Linn County, 380.16 feet to the south right-of-way line of Riverview Road; thence S89°57'30"E along said south right-of-way line, 56.70 feet; thence S00°02'30"W along said west line of said Second Addition, 300.92 feet to the said south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$; thence S89°56'46"E, along said south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ to a point on the east line of the SW $\frac{1}{4}$ of Section 31-84-7; thence continuing east along the south line of the SE $\frac{1}{4}$ of said Section 31 to a point in the centerline of Nemiah Aquilla Miller Road; thence North and East along the centerline of said Nemiah Aquilla Miller Road to the south line of the NE $\frac{1}{4}$, Section 31-84-7; thence West along the south line of the NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of said Section 31 to the easterly line of the former railroad; thence Northerly along the said easterly line to a line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31-84-7; thence East along the north line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 31; thence North along the west line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 31 to the SW Corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 30-84-7; thence North along the west line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ and the west line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 30 to the NW Corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 30; thence East along the north line of the SE $\frac{1}{4}$ of said Section 30 to the W $\frac{1}{4}$ Corner of Section 29-84-7; thence northerly along the west line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 29 to the NW Corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 29; thence west along the south line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30-84-7 to the centerline of Loggerhead Road; thence Northwesterly along the centerline of Loggerhead Road to a point on a line that bears 54°20'00"W; thence from a point on the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30 that is 421.4 feet of the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30; thence N40°20'00"E to a point on the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30; that is 421.4 feet east of the northwest corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30; thence west along the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30 421.4 feet to the NW corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30; thence continuing west along the South line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 19-84-7 and the South line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19 to the SW corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19; thence North along the West line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19 and the West line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19 to the NW corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19; thence East along the North line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19 to the point of intersection of the North line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 19 and the Northerly extension of the West line of Rolling Prairie Estates First Addition to Linn County, Iowa; thence South along the West line of said Rolling Prairie Estates First Addition to the SW corner of said Addition; thence Southeasterly along the Southwesterly line of said Rolling Prairie Estates First Addition to the Southwest corner of Lot 5, said Rolling Prairie Estates First Addition; thence East along the South line of said Lot 5 to the West right of way line of Marygreen Road; thence South along the West right of way line of Marygreen Road to the South line of said Rolling Prairie Estates First Addition; thence East along the South line of said Rolling Prairie Estates First Addition to the West line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 19; thence north along the west line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE

$\frac{1}{4}$ of said Section 19 to the North line of Sharon's Third Addition to Linn County, Iowa extended to intersect with the West line of the SW $\frac{1}{4}$ NE $\frac{1}{2}$ said Section 19; thence West along the North line of said Sharon's Third Addition and continuing West along the North line of Sharon's First Addition to Linn County, Iowa, to the West line of the E $\frac{1}{2}$ W $\frac{1}{4}$ said Section 19; thence North along the west line of E $\frac{1}{2}$ NW $\frac{1}{4}$ said Section 19 to the NW corner of the E $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 19; thence East along the north line of the E $\frac{1}{2}$ NW $\frac{1}{4}$ said Section 19 to the NE corner E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 19; thence South along the west line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 19, 50.0 feet to a point; thence east along a line 50.0 feet south of and parallel to the north line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 19 150.0 feet to a point; thence north along a line that is 150.0 feet east of and parallel to the west line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 19 and continuing North along a line that is 150 feet east of and parallel to the west line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18-84-7 to a point that is 100.0 feet south of the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 18; thence east along a line that is 100.0 feet south of and parallel to the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 18 to the east right-of-way line of Interstate 380; thence southerly along the east line of Interstate 380 to the south line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 19-84-7; thence West along the south line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section to the SW corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 19; thence South along the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 19 to the SE corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ said Section 19; thence east along the north line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30-84-7 to the NE corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30; thence South along the east line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ said Section 30 to the north line of the south 5 acres of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 29-84-7; thence East along the north line of the south 5 acres of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29 to the NE corner of the South 5 acres of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29; thence North along the east line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29 to the north line of the south 18 rods of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29; thence east along the north line of the south 18 rods of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29 to the east line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29; thence south along the east line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29 to the SE corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 29; thence East along the north line of the SE $\frac{1}{4}$ said Section 29 to the West $\frac{1}{4}$ corner of Section 28-84-7; thence East along the north line NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 28; to the NE corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ said Section 28; thence north along the west line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28 to the north line of Stonegate Fourth Addition to the City of Hiawatha; thence East along the north line of said Stonegate Fourth Addition to the NE corner of lot 5 said Stonegate Fourth Addition ; thence north 0°44'40"E to the south line of Stonegate Second Addition to the City of Hiawatha; thence West along the south line of said Stonegate Second Addition to the west line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28; thence north along the west line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28 to the north line of Stonegate Third Addition to the City of Hiawatha; thence East along the north line of said Stonegate Third Addition to the NE corner of lot 1 said Stonegate Third Addition; thence Southerly and Easterly along the easterly, northeasterly and northerly boundaries of Stonegate Third, Stonegate First and Stonegate Second Addition to the

City of Hiawatha to the east line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28; thence South along the east line of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28 to the SE corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ said Section 28; thence east along the north line of the SE $\frac{1}{4}$ of said Section 28 to the westerly right-of-way line of the Illinois Central Gulf Railroad; thence Southwesterly along said westerly right-of-way line to the north line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 28; thence East along said north line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the north line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28 to a point that is 165 feet East of the NW Corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28; thence S0°03,S'W, 261.0 feet along a line parallel to the west line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28; thence S70°19.5'E, 693.0 feet; thence S89°36.5'E, 511.6 feet to a point on the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28, said point being 495.7 feet South from the NE Corner thereof; thence South along the east line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28 to the SE Corner thereof; thence West along the south line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 28 to the NE Corner of the west 369.00 feet of the NW $\frac{1}{4}$ E $\frac{1}{4}$ Section 33-84-7; thence south along the east line of the west 369.00 feet of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ to the SE Corner of the west 369.00 feet of said NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence Southerly to a point which is 380 feet east and 445 feet South of the Northwest Corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 33; thence Southwesterly to a point that is 306 feet East and 530 feet South of the Northwest Corner SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 33; thence South 130 feet; thence West, 306 feet to the east line of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 33; thence South along the east line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the east line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33 to the NE Corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 33; thence East to a point 490.38 feet East of the west line of the SE $\frac{1}{4}$ of said Section 33, thence South to the south line of said Section 33; thence East, 6.7 feet to the east line of Lot 41, Tucker's First Addition to Hiawatha, Iowa; thence South, 757.7 feet to the point of beginning.

(Ord. 704 – Aug. 11 Supp.)

3.02 VOTING PRECINCTS. The City is divided into four (4) voting precincts described as follows:

1. First Precinct. That entire portion of the City located west of Interstate 380 south of Boyson Road to southern City limits.
2. Second Precinct. That entire portion of the City located east of North Center Point Road and north of Boyson Road and that entire portion of the City located south of Boyson Road and east of Interstate 380 to the southern point of City limits.
3. Third Precinct. That entire portion of the City located north of Boyson Road and west of North Center Point Road and south of Tower Terrace Road and that entire portion of the City located north of Tower Terrace Road and west of North Center Point Road and east of Loggerhead Road to the northern City limits and that entire portion of the City located west of Loggerhead Road and north of Canterbury Lane

and south of Todd Hills Road and that portion of the City located west of Loggerhead Road and south of Hunt Road and north of Tower Terrace Road in the southeast quarter of the southwest quarter of Section 19-84-7.

4. Fourth Precinct. That portion of the City located west of Loggerhead Road and south of Hunt Road and north of Tower Terrace Road excluding the southeast quarter of the southwest quarter of Section 19-84-7 and that entire portion of Monroe Township Linn County located west of Loggerhead Road and south of Hunt Road and north of Tower Terrace Road and that entire portion of Monroe Township Linn County located south of Tower Terrace Road and east of Milburn Road and west of Miller Road.

(Ord. 714 – Jan. 12 Supp.)

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations

4.05 Real Property
4.06 Alternative Relief
4.07 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 or 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. 364.3[6])

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense - Not to exceed \$1,000.00

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

(Ord. 542 – Dec. 03 Supp.)

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.

(Ord. 455 – May 99 Supp.)

4.04 CIVIL CITATIONS. Any City officer or employee authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer or authorized employee issuing the citation.
3. The location and time of the infraction.
4. The legal description of the affected real property, if applicable.
(*Ord. 701 – Aug. 11 Supp.*)

4.05 REAL PROPERTY. Upon receiving a citation under Section 4.04 that affects real property and that 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, the clerk of the district court shall index the citation pursuant to Iowa Code section 617.10, if the legal description of the affected property is included in or attached to the citation. 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. The county treasurer shall include a notation of the pendency of the action in the county system, as defined in Iowa Code section 445.1, until the judgment of the court is satisfied or until the action is dismissed. Pursuant to Iowa Code section 446.7, an affected property that is subject to a pending action shall not be offered for sale by the county treasurer at tax sale.

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

(*Ord. 701 – Aug. 11 Supp.*)

4.06 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]*)

(*Ord. 701 – Aug. 11 Supp.*)

4.07 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]*)

(*Ord. 701 – Aug. 11 Supp.*)

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

2. Prescribed Oath. The prescribed oath is: “I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in Hiawatha 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 inspection by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential.

(Code of Iowa, Sec. 22.1 & 22.2)

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 multimembered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

1. Schedule of Meetings. All meeting times and dates of the boards and commissions shall be established no less frequently than once a calendar year and shall be submitted to the Clerk before the beginning of each calendar year so that they can be distributed to the Council. Any changes to that schedule will then be changed after notification to the Council.

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

3. 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.

(Ord. 543 – Dec.-03 Supp.)

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

4. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

9. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[10])

10. 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[12])

11. 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.

(Ord. 543 – Dec.-03 Supp.)

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

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

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

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 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.
(Ord. 524 – Nov. 02 Supp.)

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Director of Finance
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation

7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports
7.09 Unauthorized Expenditure

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 DIRECTOR OF FINANCE. The Director of Finance is the accounting officer and treasurer 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 or authorized City employee shall be deposited through the office of the Director of Finance. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the Director of Finance 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 Director of Finance shall be custodian of a petty cash fund in an amount established by resolution of the Council 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 Director of Finance 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 Director of Finance 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 Director of Finance 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 Director of Finance for inclusion in the proposed City budget in such form as may be required by the Council.

3. Submission to Council. The Director of Finance shall submit the completed budget proposal to the Council no later than February 1 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 Director of Finance 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 Director of Finance 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 Director of Finance 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]) (Ord. 437 - Dec. 97 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

4. Administrative Transfers. The Director of Finance 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 prenumbered and signed by the Director of Finance following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-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 Director of Finance 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 Director of Finance shall perform and be responsible for accounting functions of the municipally owned utilities, except the utility under the control of the Water Utility Board of Trustees.

7.08 FINANCIAL REPORTS. The Director of Finance 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 first 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 first of each year.

(Code of Iowa, Sec. 384.22) (Ord. 437 - Dec. 97 Supp.)

7.09 UNAUTHORIZED EXPENDITURE. No City official or employee, or any person acting under color of such office or employment, shall knowingly make any contract or authorize any expenditure known by him or her to be in excess of that authorized by law.

(Code of Iowa, Sec. 721.2[1])

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 CHAPTER REPEALED. Chapter 8 Industrial Property Tax Exemptions is hereby repealed in its entirety by Ordinance #838 adopting Iowa Code Chapter 427B Special Tax Provisions including any subsequent additions and revisions.

(Ch. 8 – Ord. 838 – Oct. 15 Supp.)

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CHAPTER 9

URBAN RENEWAL

9.01 Purpose

9.02 Hiawatha Urban Renewal Areas

9.01 PURPOSE. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of the ordinance codified by this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such areas.

9.02 HIAWATHA URBAN RENEWAL AREAS.

1. For purposes of this chapter, the following terms shall have the following meanings:

A. Original Area shall mean that portion of the City of Hiawatha, Iowa described in the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 91-68 on June 19, 1991, which Original Area includes the lots and parcels located within the area legally described as follows:

ORIGINAL AREA

Beginning at the intersection of the southern corporate limits and Thirteenth Avenue; then North on Thirteenth Avenue to Rainbow Boulevard; then West on Rainbow Boulevard to Fourteenth Avenue; then North on Fourteenth Avenue and North 4th Avenue to Cress Parkway; then East on Cress Parkway to North 12th Avenue; then North on North 12th Avenue to Lyndhurst Drive; then East on Lyndhurst Drive to North 10th Avenue; then South on North 10th Avenue to Emmons Street; then East on Emmons Street to Robins Road; then North on Robins Road to the corporate limits; then following the corporate limits along the Northeast, North, Northwest, West, and Southwest boundaries to the point of beginning.

B. No land was added by Amendment No. 1.

C. Amendment No. 2 Area shall mean that portion of the City of Hiawatha, Iowa described in Amendment No. 2 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 98-87 adopted July 16, 1998, which Amendment No. 2 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 2 AREA

1) The West 369.00 feet of the Northwest Quarter (NW1/4) of the Northeast Quarter (NE1/4), Section Thirty-three (33), Township Eighty-four (84), Range Seven (7), and all that part of the Northeast Quarter (NE1/4) of the Northwest Quarter (NW1/4) of Section Thirty-three (33), Township Eighty-four (84), Range Seven (7), lying Southeasterly of the Illinois Central Railroad right-of-way

AND

The East Half of Robins Road adjacent to this property and all of that part of East Boyson Road lying North of the East West 1/4 1/4 line that describes the NE1/4 NW1/4 of Section 33-T84N-R7W and NW1/4 NE1/4 of Section 33-T84N-R7W

AND

2) NW1/4 Section 28-84-7, Linn County, Iowa, except the West 1037 feet of South 260 feet thereof, and further excepting that part described as follows: Commencing at the NW corner said E1/2 NW1/4; thence due South 1175 feet along the West line said E1/2 NW1/4 to point of beginning; thence continuing due South along said West line 500 feet; thence due East 853.5 feet to an existing fence; thence North 0 44'40" East 500.04 feet along an existing fence; thence due West 800 feet to point of beginning.

AND

West 1037 feet of the South 260 feet SE1/4 NW1/4 Section 28-84-7, Linn County, Iowa

AND

3) The South Twenty-nine and five-tenths (29.5) acres of the Southwest Quarter (SW1/4) of the Northwest Quarter (NW1/4) of Section Twenty-nine (29), Township Eighty-four (84) North, Range Seven (7), West of the 5th P.M., Linn County, Iowa

AND

The North Half of Tower Terrace Road that abuts the above legally described property.

AND

The West One-Half of the East One-Half of the following two tracts: The South 5 acres of the North 10 acres of the Southwest Quarter of the Northwest Quarter of Section 29. Township 84 North, Range 7, West of the 5th P.M., and the North One-Half acre of the South 30 acres of the Southwest Quarter of the Northwest Quarter of Section 29, Township 84, North Range 7 West of the 5th P.M., Linn County, Iowa, subject to a 20 foot road easement of record along the South side of the premises herein described, together with an equal right and share in an

easement along the South 20 feet of the reserved or East One-Half of the premises herein above described.

AND

4) A part of the SE1/4 NW1/4 and the SW1/4 NE1/4 of Section 31-T84N-R7W of the 5th P.M., Linn County, Iowa, described as follows:

The SE1/4 NW1/4 and the SW1/4 NE1/4 of said Section 31

EXCEPT

The south 882 feet of said SE1/4 NW1/4.

and EXCEPT

Beginning at the SE corner of said SW1/4 NE1/4 of Section 31; thence northerly along the East line of said SW1/4 NE1/4, 360 feet; thence westerly parallel to and 360 feet north of the South line of said SW1/4 NE1/4, 500 feet; thence northerly parallel to and 500 feet west of the East line of said SW1/4 NE1/4, 522 feet; thence westerly parallel to and 882 feet north of the South line of said SW1/4 NE1/4, to the west line of said SW1/4 NE1/4; thence southerly along said west line, 882 feet to the SW corner of said SW1/4 NE1/4; thence easterly along the south line of said SW1/4 NE1/4 to the point of beginning containing 19.72 acres more or less.

AND

5) That part of the NW1/4 NE1/4 Section 6-83-7, Linn County, Iowa, described as follows:

Commencing at the North Quarter corner of said Section 6-83-7; thence South a distance of 408.40 feet; thence South 88°11' East a distance of 1021.40 feet to the centerline of the County Road; thence South 0°58' West on said Road centerline a distance of 150.0 feet to the point of beginning; thence continuing South 0°58' West a distance 240.0 feet to the centerline of Blairs Ferry Road; thence North 88°11' West on the centerline of said Blairs Ferry Road a distance of 540.00 feet; thence North 0°58' East a distance of 240.0 feet; thence South 88°11' East a distance of 540.0 feet to the point of beginning.

The Urban Renewal District includes the full right-of-way of all roads forming the boundary.

D. Amendment No. 3 Area shall mean that portion of the City of Hiawatha, Iowa described in Amendment No. 3 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 01-145 adopted December 5, 2001, which Amendment No. 3 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 3 AREA

Lots 1, 15, 16 17 and A Tucker's First Addition to Hiawatha, Iowa, including the adjoining streets;

and

Lots 1, 2, 3, 28, 29, 30, 31, 32, 33, 34, 35 and 36 Hartl's First Addition to Hiawatha, Iowa, including the adjoining streets;

and

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and B (Lot B is also known as Plat of Survey No. 181 parcels A and B) Auditor's Plat No. 281 Linn County, Iowa, including the adjoining streets.

E. Amendment No. 4 Area shall mean that portion of the City of Hiawatha, Iowa described in Amendment No. 4 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 2-38 adopted March 20, 2002, which Amendment No. 4 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 4 AREA

Reynold's First Addition to the City of Hiawatha, Iowa including the streets within and adjoining;

and

Pirie's First Addition to the City of Hiawatha, Iowa including the streets within and adjoining;

and

Lots 1-4 inclusive and lots 15-18 inclusive Auditor's Plat no. 275 Linn County, Iowa, including the adjoining streets;

and

Lot 1 Chaffee's Second Addition to Hiawatha, Iowa, including the adjoining streets;

and

Lot 1 Chaffee's First Addition to Hiawatha, Iowa, including the adjoining streets;

and

The South Eight (8) rods of the North twenty-four (24) rods of the Southwest Quarter (SW1/4) of the Northeast Quarter (NE 1/4) of the Southwest Quarter (SW1/4) of Section Thirty-three (33), excepting therefrom the East two hundred fifty (250) feet, All in Township Eighty-four (84), North, Range Seven (7), West of the 5th P.M., Linn County, Iowa, including the adjoining streets;

and

South 4 Rods West 200 Feet North 8 Rods South 16 Rods SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33-84-7, Linn County, Iowa, subject to Public Highway, including the adjoining streets;

and

The South 8 rods of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ except the East 250 feet in Section 33 Township 84 North, Range 7 West of the 5th P.M. in Linn County, Iowa, including the adjoining streets;

and

The North eight (8) rods of the South sixteen (16) rods of the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) in Section 33-84-7, Linn County, Iowa, except the South four (4) rods of the West two hundred (200) feet thereof, including the adjoining streets;

and

The East two hundred fifty (250) feet of the South eight (8) rods of the North twenty-four (24) rods of the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 33-84-7, Linn County, Iowa;

and

The East two hundred fifty (250) feet of the South eight (8) rods of the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 33-84-7, Linn County, Iowa;

and

The North 8 Rods of the NW $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 33-84-7, Linn County, Iowa, including the adjoining streets;

and

South 16 rods of the North 24 rods of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the West $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the West 100 feet of SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ all in Section 33, Twp 84, North, Range 7 West of the 5th P.M., including the adjoining streets;

and

Auditor's Plat No. 396 to Linn County, Iowa including the streets within and adjoining;

And

Lots 4 through 9 inclusive and vacated A Avenue adjoining Lot 9 Hartl's First Addition to Hiawatha, Iowa, including the adjoining streets.

The Urban Renewal District includes the full right-of-way of all roads forming the boundary.

F. Amendment No. 5 Area shall mean that portion of the City of Hiawatha, Iowa described in Amendment No. 5 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 05-182 adopted November 18, 2005, which Amendment No. 5 Area includes the lots and parcels located within the area legally described as follows:

BEGINNING AT THE SOUTHEAST CORNER OF THE SE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 29-84-7 LINN COUNTY, IOWA; THENCE NORTH ALONG THE EAST LINE OF SAID SE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ AND CONTINUING ALONG THE EAST LINE OF THE NE $\frac{1}{4}$ NW $\frac{1}{4}$ SAID SECTION 29 TO THE NORTHEAST CORNER OF THE SOUTH 18 RODS OF SAID NE $\frac{1}{4}$ NW $\frac{1}{4}$; THENCE WESTERLY ALONG THE NORTH LINE OF THE SOUTH 18 RODS OF SAID NE $\frac{1}{4}$ NW $\frac{1}{4}$ TO THE NORTHWEST CORNER OF SAID SOUTH 18 RODS; THENCE SOUTH ALONG THE WEST LINE OF NE $\frac{1}{4}$ NW $\frac{1}{4}$ TO THE NORTH LINE OF THE SOUTH 5 ACRES OF THE S $\frac{1}{2}$ OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 29-84-7 LINN COUNTY, IOWA; THENCE WEST ALONG SAID NORTH LINE OF SOUTH 5 ACRES OF THE S $\frac{1}{2}$ OF THE NW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 29-84-7 TO THE WEST LINE OF SAID NW $\frac{1}{4}$ NW $\frac{1}{4}$ THENCE NORTH ALONG THE WEST LINE OF SAID NW $\frac{1}{4}$ NW $\frac{1}{4}$ TO THE NORTHEAST CORNER OF NE $\frac{1}{4}$ SECTION 30-84-7 LINN COUNTY, IOWA; THENCE WEST ALONG THE NORTH LINE OF SAID NE $\frac{1}{4}$ TO A POINT LOCATED 421.4 FEET EAST OF THE NORTHWEST CORNER OF SAID NE $\frac{1}{4}$; THENCE SOUTH ALONG A LINE BEARING S42°0'W (ASSUMING THE NORTH LINE OF THE NE $\frac{1}{4}$ SECTION 30-84-7 TO BEAR DUE WEST) TO THE CENTERLINE OF LOGGERHEAD ROAD, LINN COUNTY, IOWA; THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF LOGGERHEAD ROAD TO THE SOUTH LINE OF THE NW $\frac{1}{4}$ NE $\frac{1}{4}$ OF SECTION 30-84-7; THENCE EAST ALONG THE SOUTH LINE OF THE NW $\frac{1}{4}$ NE $\frac{1}{4}$ AND THE SOUTH LINE OF THE NE $\frac{1}{4}$ NE $\frac{1}{4}$ OF SECTION 30-84-7 TO THE EAST LINE OF THE NE $\frac{1}{4}$ SECTION 30-84-7; THENCE SOUTH ALONG THE EAST LINE OF THE NE $\frac{1}{4}$ SECTION 30-84-7 TO THE SOUTH LINE OF THE NORTH $\frac{1}{2}$ ACRE OF THE SOUTH 30 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7 LINN COUNTY, IOWA; THENCE EAST ALONG SAID SOUTH LINE TO THE EAST LINE OF THE W $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ ACRE OF THE SOUTH 30 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7; THENCE NORTH ALONG THE SAID EAST LINE AND THE EAST LINE OF THE W $\frac{1}{2}$ OF THE SOUTH 5 ACRES OF THE NORTH 10 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7 TO THE NORTH LINE OF THE SOUTH 5 ACRES OF THE NORTH 10 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7; THENCE EAST ALONG SAID NORTH LINE TO THE WEST LINE OF THE E $\frac{1}{4}$ OF

THE SOUTH 5 ACRES OF THE NORTH 10 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7; THENCE SOUTH ALONG SAID WEST LINE AND THE WEST LINE OF THE E $\frac{1}{4}$ OF THE N $\frac{1}{4}$ ACRE OF THE SOUTH 30 ACRES OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ OF SECTION 29-84-7 TO THE SOUTH LINE OF SAID NORTH $\frac{1}{4}$ ACRE; THENCE EAST ALONG SAID SOUTH LINE TO THE WEST LINE OF THE SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7; THENCE SOUTH ALONG SAID WEST LINE TO THE SOUTH LINE OF THE SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 29-84-7; THENCE EAST ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.

*Territory extends to center line of all secondary roads adjacent to the above described properties.

G. Amendment No. 6 Area shall mean that portion of the City of Hiawatha, Iowa described in Amendment No. 6 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 10-106 adopted May 19, 2010, and corrected by Resolution No. 10-257, adopted November 3, 2010, which Amendment No. 6 Area includes the lots and parcels located within the area legally described as follows:

Tom G. Sharpe and Katherina I. Sharpe (Linn County)

Lot Four (4) containing 0.74 acres in Auditor's Plat #448 filed January 21, 1971, in Plat Records Volume 18, page 47; and Lot One (1) Irregular Survey of the West Fractional Half of the Northwest Quarter (W. Fr. $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 30, Township 84 North, Range 7 West of the 5th P.M., containing 8.67 acres as shown in Book 3, page 126.

And

All that part of the 100 foot former right-of-way of the Chicago, Rock Island and Pacific Railroad Company lying S-ly of a line drawn at right angles to the centerline of said former right-of-way through the most N-ly corner of Lot 4, Auditor's Plat No. 448 and lying N-ly of the N-ly line of the Public Highway, as described in Warranty Deed recorded in Volume 1886 page 365, records of the Linn County, Iowa, Recorder's Office, extended SE-ly across former Railroad right-of-way

Tim L. McCalley and Eunice R. McCalley (Linn County)

Lot 3 and Lot 4, Auditor's Plat No. 448, Linn County, Iowa

And

All that part of the 100 foot former right-of-way of the Chicago, Rock Island and Pacific Railroad Company lying S-ly of the most N-ly line of Lot 2, Auditor's Plat No. 448, Linn County, Iowa extended NE-ly across said former right-of-way and lying N-ly of a line drawn at right angles to the centerline of said former right-of-way through the most N-ly corner of Lot 4, said Auditor's Plat No. 448

Timothy A. Myers and Jean Flickinger (Linn County)

Lot 4, Meadowbrook Estates Addition to Linn County, Iowa and all that part of 100 foot former right-of-way of the Chicago, Rock Island and Pacific Railroad Company lying S-ly of the North line of the NW ¼ Section 30-84-7, Linn County, Iowa and lying N-ly of the most N-ly line of Lot 2, Auditor's Plat No. 448, Linn County, Iowa, extended NE-ly across said former right-of-way.

Edwin L. Arkema and Leona M. Arkema (Linn County)

Lot 2, Meadowbrook Estates Addition to Linn County, Iowa
And

Lot 3, Meadowbrook Estates Addition to Linn County, Iowa, excepting therefrom Plat of Survey #1069, Linn County, Iowa, being a part of Lot 3, Meadowbrook Addition to Linn County, Iowa, as described in Volume 5651 at Page 256 and recorded May 10, 2004, in the Office of the Linn County, Iowa Recorder, subject to conditions, covenants, easements and restrictions of record.

Rodney G. Powell and Connie S. Powell (Linn County)

Lot 1, Meadowbrook Estates Addition to Linn County, Iowa

J. Patrick Geraghty and Pamela K. Geraghty (Linn County)

Lot 5, Meadowbrook Estates Addition to Linn County, Iowa

Dorothea J. O'Brien Revocable Trust dated February 23, 2002 (Linn County)

Lot 6, Meadowbrook Estates Addition to Linn County, Iowa

Charles D. Veldhuizen and Marsha R. Veldhuizen, Trustees, the Veldhuizen Family Trust dated November 7, 1998 (Linn County)

Lot 7, Meadowbrook Estates Addition to Linn County, Iowa

Richard L. White and Joyce A. White (Linn County)

Lot 8 and Lot 9, Meadowbrook Estates Addition to Linn County, Iowa

Gary R. Grimm and Elsie R. Grimm (Linn County)

That part of Lot 1 Irregular Survey NE ¼ Section 25-84-8 lying NE-ly of the Public Highway except 149 feet and 3 inches off the East side thereof, Linn County, Iowa and further excepting public highway

Gerard A. Herman and Linda L. Herman (Linn County)

Lot 11, Meadowbrook Estates Addition to Linn County, Iowa

Winston D. Zenor and Deann M. Zenor (Linn County)

Lot 10, Meadowbrook Estates Addition to Linn County, Iowa

Roland L. Hiemstra and Patty L. Hiemstra (Linn County)

All that part of the West Twenty-three and One-half (23 ½) Acres of the Southeast Quarter (SE ¼) of the Northwest Quarter (NW ¼) of Section Thirty (30) lying Northerly and Easterly of the Public Highway extending through the said Southeast

Quarter (SE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Thirty (30); and

All that part of Lot Three (3), Irregular survey of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Thirty (30) lying Northerly and Easterly of the Public Highway extending through said Lot Three (3); all in Township Eighty-four (84) North, Range Seven (7), West of the 5th P.M., Linn County, Iowa, excepting therefrom that portion conveyed to Linn County, Iowa, by Warranty Deed recorded in Vol. 1877, page 668.

And

That part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ lying SW-ly of the public highway

And
West 13 $\frac{1}{2}$ Acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ and East 16 $\frac{1}{2}$ Acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ all in Section 30-84-7, Linn County, Iowa except public highway

Iowa 7th Day Adventist Association (Linn County)

Commencing at the Northwest corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 30, Township 84 North, Range 7 West of the 5th P.M., thence South along the West line of said Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 84 North, Range 7, 823.5 feet; thence South 85°41' E 33.1 feet to the East line of County Road and point of beginning; thence S 85°41' East 326.5 feet; thence South 4°20' West 377.6 feet to the Northeasterly line of County Road; thence North 52°19' West 375.9 feet along the Northeasterly line of County Road; thence North 52°19' West 375.9 feet along the Northeasterly line of County Road; thence North 171.1 feet along the East line of County Road to point of beginning, and containing two (2) acres all in the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 84 North, Range 7 West of the 5th P.M. The West line of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 84 North, Range 7 West of the 5th P.M. is assumed to run North and South

And

Commencing at a point in the North line of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 30, Township 84 North, Range 7 West of the 5th P.M., which point is 33 feet East of the Northwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Twp. 84 North, Range 7 West of the 5th P.M.; thence South 825.8 feet; thence South 85 degrees 41 minutes East, 326.5 feet; thence North 4 degrees 20 minutes East 849.6 feet to point in the North line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Twp. 84 North, Range 7 West of the 5th P.M.; thence North 89 degrees 35 minutes West, 388.4 feet along the North line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 30, Twp. 84 North, Range 7 West of the 5th P.M. to the point of beginning.

**Iowa Electric Light and Power Company – 70% interest,
Central Iowa Power Cooperative – 20% interest and Corn
Belt Power Cooperative – 10% interest (Linn County)**

The North 100 feet of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section 18, Township 84 North, Range 7 West of the 5th P.M., excepting therefrom the public highway; and the West 150 feet of the Southwest Quarter (SW $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 18, excepting therefrom the public highway; and the North 50 feet of the West 150 feet of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 19, Township 84 North, Range 7 West of the 5th P.M. excepting therefrom the public highway.

Jane Ellen Fink Revocable Trust dated May 22, 1997 (To be annexed)

The SW Fractional $\frac{1}{4}$ of the SW $\frac{1}{4}$, except the right of way of the C. R. I. & P. Ry. Co.; in Section 19, Township 84, Range &, Linn County, Iowa

Subject to public highway and subject to covenants, conditions, restrictions and easements of record.

Hawkeye Land Company %Rick Stickle (To be annexed)

100-foot wide strip of abandoned railroad right of way in the SW Fractional $\frac{1}{4}$ of the SW $\frac{1}{4}$, in Section 19, Township 84 North, Range 7 West, Linn County, Iowa

Patrick Kilburg and Diane L. Kilburg (To be annexed)

The North One-Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Nineteen (19), Township Eighty-four (84) North, Range Seven (7) West of the 5th P.M., excepting Rolling Prairie Estates First Addition to Linn County, Iowa

Jane Ellen Fink Revocable Trust dated May 22, 1997 (City of Hiawatha)

The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$; and

The SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, excepting therefrom V & J First Addition to Linn County, Iowa;

All in Section 19, Township 84, Range 7, Linn County, Iowa

Rodney C Saari and Vicki L. Saari (City of Hiawatha)

Lot #1, V and J First Addition to Linn County, Iowa

Francis J. Pruss Estate (City of Hiawatha)

Tract One:

NW $\frac{1}{4}$ SE $\frac{1}{4}$ and that part of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying Westerly of Interstate 380, all in Section 19-84-7, Linn County, Iowa

Tract Two:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ except road Section 19-84-7, Linn County, Iowa

Dell Ridge, LLC, Forrest Kramer, Manager (City of Hiawatha)

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 19-84-7, Linn County, Iowa except North 50 feet West 150 feet thereof; and SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18-84-7, Linn County, Iowa excepting therefrom North 100 feet of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ excepting therefrom West 150 feet and further excepting therefrom West 150 feet said SW $\frac{1}{4}$ SE $\frac{1}{4}$ excepting

from all the above the public highways, together with servient easements and estates and subject to covenants, easements and restrictions of record.

Mooney-Engle Land Company, LLC (City of Hiawatha)

N 50 acres E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 19-84-7, Linn County, Iowa subject to public highway and easements of record.

Mooney-Engle Land Company, LLC (Linn County)

That part of the E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 19-84-7, Linn County, Iowa lying South of the N 50 Acres thereof and lining North of Sharon's First Addition to Linn County, Iowa and Sharon's Third Addition to Linn County, Iowa

Loggerhead Road (City of Hiawatha)

That part of Loggerhead Road lying contiguous and adjacent to in the N 50 acres of the E $\frac{1}{2}$ of the NW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, except the North 50 feet of the West 150 feet thereof, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ all in Section 19-84-7, Linn County, Iowa

Loggerhead Road (Linn County)

That part of Loggerhead Road lying contiguous and adjacent to the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 18-84-7, and lying contiguous and adjacent to the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 19-84-7 all in Linn County, Iowa

Todd Hills Road (City of Hiawatha)

That part of Todd Hills Road lying contiguous and adjacent to the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Section 19-84-7, Linn County, Iowa

Todd Hills Road (Linn County)

That part of Todd Hills Road lying contiguous and adjacent to the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 18-84-7, Linn County, Iowa,

Hay Lane (City of Hiawatha)

That part of Hay Lane lying contiguous and adjacent to the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 19-84-7, Linn County, Iowa

Interstate 380 (City of Hiawatha)

That part of Interstate 380 lying contiguous and adjacent to the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ in Section 18-84-7, excepting the North 100 feet thereof, Linn County, Iowa; the NE $\frac{1}{4}$ of Section 19-84-7 and the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 19-84-7, Linn County, Iowa

Tower Terrace Road (Linn County)

That part of Tower Terrace Road lying in the unincorporated area of Linn County, north of the centerline lying contiguous and adjacent to the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ all in Section 19-84-7, Linn County, Iowa

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County north of the centerline lying contiguous and adjacent to Lot Three (3), Irregular Survey of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) lying Northerly and Easterly of the Public Highway extending through said Lot Three (3) in Section Thirty (30), Township Eighty-four (84) North, Range Seven (7) West of the 5th, Linn County, Iowa.

And

That part of Tower Terrance Road lying in the unincorporated area of Linn County lying contiguous and adjacent Lot Four (4) containing 0.74 acres in Auditor's Plat #448 filed January 21, 1971, in Plat Records Volume 18, page 47; and Lot One (1) Irregular Survey of the West Fractional Half of the Northwest Quarter (W. Frl. $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 30, Township 84 North, Range 7 West of the 5th P.M., containing 8.67 acres as shown in Book 3, page 126.

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Lot 7, Irregular Survey of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 30-84-7, Linn County, Iowa and a 100-foot wide strip of land as same is presently laid out and located in the east half of the Southwest Quarter of the Northwest Quarter of Section 30, Township 84 North, Range 7 West, Linn County, said strip commences at the East/West centerline of said Section and runs northerly 1040 feet.

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Lot 3 and Lot 4, Auditor's Plat No. 448, Linn County, Iowa and all that part of the 100 foot former right-of-way of the Chicago, Rock Island and Pacific Railroad Company lying S-ly of the most N-ly line of Lot 2, Auditor's Plat No. 448, Linn County, Iowa extended NE-ly across said former right-of-way and lying N-ly of a line drawn at right angles to the centerline of said former right-of-way through the most N-ly corner of Lot 4, said Auditor's Plat No. 448.

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Lot 1, Lot 9 and Lot 11, Meadowbrook Estates Addition to Linn County, Iowa

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Lot 8, Tower Acres Third Addition to Linn County, Iowa

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Lot 1, Tower Acres Addition to Linn County, Iowa

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County north of the centerline lying contiguous and adjacent to Lot 8, Meadowbrook Estates Addition to Linn County, Iowa

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County north of the centerline lying contiguous and adjacent to that part of Lot 1 Irregular Survey NE ¼ Section 25-84-8 lying NE-ly of the Public Highway except 149 feet and 3 inches off the East side thereof, Linn County, Iowa and further excepting public highway

And

That part of Tower Terrace Road lying in the unincorporated area of Linn County lying contiguous and adjacent to Tower Drive in the NW ¼ of the NW ¼, Section 30-84-7, Linn County, Iowa

Hunt Road (Linn County)

That part of Hunt Road lying contiguous and adjacent to the SW ¼ of the NE ¼, the SE ¼ of the NE ¼, the NW ¼ of the SW ¼ and the NE ¼ of the SW ¼ all in Section 19-84-7

Tower Drive (Linn County)

That part of Tower Drive lying within Meadowbrook Estates Addition to Linn County, Iowa

Springbrook Drive (Linn County)

That part of Springbrook Drive lying within Meadowbrook Estates Addition to Linn County, Iowa

H. Amendment Nos. 7, 8 and 9 added no land to the Urban Renewal Area so the TIF Ordinance was not changed.

I. Amendment No. 10 Area shall mean that portion of the City of Hiawatha, State of Iowa, described in Amendment No. 10 to the Urban Renewal Plan for the Hiawatha Urban Renewal Area approved by Resolution No. 15-020 on the 18th day of February, 2015, which Amendment No. 10 Area includes the lots and parcels located within the area legally described as follows:

AMENDMENT NO. 10 AREA

The West 40 rods of the SW ¼ NE ¼ Section 18-84-7, Linn County, Iowa, except the South 24 rods thereof and further excepting the public highways

And

The South 24 rods of the West 40 rods of the SW ¼ NE ¼ Section 18-84-7, Linn County, Iowa, subject to public highway

And

Beginning at a point S88°39'E 662.2 ft. from the center of said Sec. 18, said point being on the South line of said NE ¼; thence N0°17'W 1266.1 ft.; thence N78°37' ½'E 284.2 ft.; thence S88°30' ½'E 75.2 ft.; thence S13° 24' ½'E 966.0 ft.; thence S1°23'E 394.3 ft. to a point on the said South line; thence N88°39'W 581.2 ft. along the South line, to the point of beginning; Containing 14.97 acres more or less.

Note: The South line of the NE ¼ of said Sec. 18 is assumed to bear S88°39'E.

AND

Lot 1, Bowers Second Addition to Linn County, Iowa

And

That part of the Southwest Quarter of the Southeast Quarter in Section 7-84-7, Linn County, Iowa lying West of Interstate 380

And

That part of the Northwest Quarter of the Southeast Quarter in Section 7-84-7, Linn County, Iowa lying West of Interstate 380

AND

That part of Cora Mae Lane lying contiguous and adjacent to Lot 1, Bowers First Addition to Linn County, Iowa and contiguous and adjacent to Lot 1, Bowers Second Addition to Linn County, Iowa also lying in the Northwest Quarter of the Northeast Quarter in Section 18-84-7, Linn County, Iowa

AND

The West Half of Interstate 380 lying adjacent and contiguous to Brittany Estates First Addition to Linn County, Iowa and the North 100 feet of the Southwest Quarter of the Northeast Quarter and the Northwest Quarter of the Northeast Quarter in Section 18-84-7, the Southwest Quarter of the Southeast Quarter and the Northwest Quarter of the Southeast Quarter in Section 7-84-7, Linn County, Iowa

Except

That part of the West Half of Interstate 380 lying adjacent and contiguous to Lot 3, Bowers Second Addition to Linn County, Iowa, also located in the Northwest Quarter of the Northeast Quarter in Section 18-84-7, Linn County, Iowa

AND

That part of County Home Road lying adjacent and contiguous to the Southwest Quarter of the Northeast Quarter in Section 18-84-7, and adjacent and contiguous to Lot 1, Bowers Second Addition to Linn County, Iowa and Lot 1, Bowers First Addition to Linn County, Iowa, also located in the Northwest Quarter of the Northeast Quarter of Section 18-84-7, Linn County, Iowa

AND

The East Half of Loggerhead Road lying adjacent and contiguous to the Southwest Quarter of the Northeast Quarter in Section 18-84-7, Linn County, Iowa

The territory extends to the center line of all secondary roads adjacent to the above described properties; and

- J. Amended Area shall mean that portion of the City of Hiawatha, State of Iowa, included within the Original Area, Amendment No. 2 Area, Amendment No. 3 Area, Amendment No. 4 Area, Amendment No. 5 Area, Amendment No. 6 Area, and Amendment No. 10 Area, which Amended Area includes the lots and parcels located within the area legally described in subparagraphs (A)–(I) above.
2. The taxes levied on the taxable property in the Amended Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, County of Linn, Iowa, Cedar Rapids Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.
3. As to the Original Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Area upon the total sum of the assessed value of the taxable property in the Original Area as shown on the assessment roll as of January 1, 1990, being the first day of the calendar year preceding the effective date of Ordinance No. 279, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.
- As to Amendment No. 2 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 1997, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 467.
- As to Amendment No. 3 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2000, being the assessment roll applicable to property in such area

as of January 1 of the calendar year preceding the effective date of Ordinance No. 512.

As to Amendment No. 4 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2001, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 513.

As to Amendment No. 5 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2004, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance No. 584.

As to Amendment No. 6 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2009, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance 684.

As to Amendment No. 10 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll as of January 1, 2014, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.

4. That portion of the taxes each year in excess of the base period taxes for the Amended Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Hiawatha, State of Iowa, to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by the City of Hiawatha, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Area pursuant to the Urban Renewal Plan, as amended, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Amended Area without any limitation as hereinabove provided.

5. Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of

this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

6. At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Hiawatha, State of Iowa, referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

7. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to continue the division of taxes from property within the Original Area, Amendment No. 2 Area, Amendment No. 3 Area, Amendment No. 4 Area, Amendment No. 5 Area and Amendment No. 6 Area under the provisions of Section 403.19 of the Code of Iowa, as authorized in Ordinance Nos. 279, 467, 512, 513, 584 and 684, and to fully implement the provisions of Section 403.19 of the Code of Iowa with respect to the division of taxes from property within the Amendment No. 10 Area as described above. Notwithstanding any provisions in any prior Ordinances or other documents, the provisions of this Ordinance and all prior Ordinances relating to the Urban Renewal Area, as amended, shall be construed to continue the division of taxes from property within the Area to the maximum period of time allowed by Section 403.19 of the Code of Iowa. In the event that any provision of this Ordinance shall be determined to be contrary to law it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Amended Area and the territory contained therein.

(Chapter 9 - Ord. 824 – Apr. 15 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (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 City departments except for supervisory duties delegated by the City Council to the City Administrator, and shall have the power to examine all functions of the City departments, their records, and to request special reports from department heads through the City Administrator at any time.

(Ord. 849 – Jun. 16 Supp.)

(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. *(Ord. 428 - Dec. 97 Supp.)*

(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. Upon authorization of the Council, revoke permits or licenses granted by the Council when their terms are violated or the provisions of this Code of Ordinances and/or the laws of the State are violated by holders of said permits or licenses.
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. City Attorney
2. Library Board of Trustees
3. Parks and Recreation Commission
4. Utility Board of Trustees
5. Board of Appeals
6. Planning and Zoning Commission
7. Board of Adjustment
8. Police Chief
9. Fire Chief
10. Deputy Chiefs
11. History Commission

(Ord. 798 – Jan. 15 Supp.)

15.04 COMPENSATION. The Mayor receives an annual salary of five thousand dollars (\$5,000.00) to be paid in equal monthly installments. The Mayor shall abide by the Policy, Benefits and Procedures of the City when traveling on the business of the City is necessary. The Mayor shall be reimbursed for actual out-of-pocket expense, including automobile expenses, occasioned by the performance of his or her duties as Mayor, for which the Mayor shall submit an expense account prior to receipt of reimbursement for the approval of the Council. However, no provision of this section or of any other law shall be construed to give the Mayor or any other municipal employee both mileage and expenses for the same transaction.

(Ord. 600 – Aug. 07 Supp.)

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

(Code of Iowa, Sec. 372.4)

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CHAPTER 16

MAYOR PRO TEM

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

16.05 Alternate Mayor Pro Tem
16.06 Absence
16.07 Return From Absence

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

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

16.02 POWERS AND DUTIES. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to 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 shall, starting on the 15th day, receive ten dollars (\$10.00) for each day thereafter that he or she performs the duties. The Mayor Pro Tem will not receive Council wages while he or she is receiving compensation as Mayor Pro Tem.

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

16.05 ALTERNATE MAYOR PRO TEM. In the event of an extended absence of the Mayor, the Mayor Pro Tem may designate one member of the Council as alternate Mayor Pro Tem, which appointment shall be made subject to the approval of the Council. This appointment shall be in effect for the duration of the Mayor's absence. When the Mayor Pro Tem is absent or unable to act during the Mayor's extended absence, the alternate Mayor Pro Tem shall have all the powers and duties as the Mayor Pro Tem.

16.06 ABSENCE. Absence is defined as any time the Mayor or both the Mayor and Mayor Pro Tem are out of the City limits in excess of 50 miles and/or 48 hours.

16.07 RETURN FROM ABSENCE. Return is defined as the return to within the City limits and notification to the alternate Mayor Pro Tem in the case of the Mayor Pro Tem; and Mayor Pro Tem or the alternate Mayor Pro Tem in the case of the Mayor.

CHAPTER 17

COUNCIL

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

17.04 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.

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

4. Public Improvements. The Council shall make all orders for the doing of work, or the making or 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, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council.

(Code of Iowa, Sec. 364.2[1] & 384.95 through 384.102)

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 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 five thousand dollars (\$5,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

(Ord. 714 – Jan. 12 Supp.)

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.

(Ord. 428 - Dec. 97 Supp.)

(Code of Iowa, Sec. 380.4)

17.04 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 regular meetings of the Council are on the first, second and third Wednesdays of each month. The first and third Wednesday meetings begin at five thirty o'clock (5:30) p.m. Work sessions will be scheduled as deemed necessary by the Mayor and City Council. The starting time of the work sessions may be scheduled by motion of the Council. Motions, resolutions and ordinances will not be acted on at a work session. All Council meetings are held at Council

Chambers, City Hall, unless noted otherwise. If such day falls on a legal holiday, the meeting is held the next day at the same time unless a different day or time is determined by the Council.

(Ord. 747 – Sep. 13 Supp.)

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

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

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

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

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 Clerk

2. City Administrator

(Ord. 850 – Jun. 16 Supp.)

17.06 COMPENSATION. The salary of each Council member is fifty dollars (\$50.00) for each regular or special meeting of the Council. Each Council person shall accrue the equivalent of two (2) meetings per year as vacation time.

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

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CHAPTER 18

CITY CLERK

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

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the pleasure 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 RECORDING AND PUBLICATION OF MEETING MINUTES. The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim.

(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.

(Ord. 428 - Dec. 97 Supp.)

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

18.05 PUBLICATION. The Clerk shall cause to be published all ordinances, enactments, proceedings and official notices requiring publication or posting 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, except that ordinances and amendments may be published by posting in the following places:

City Hall
Library
Post Office

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

(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. *(Ord. 428 - Dec. 97 Supp.)*

(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])

(Ord. 428 - Dec. 97 Supp.)

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

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

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

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

18.11 NOTIFY APPOINTEES. The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their 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 following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election. *(Ord. 525 – Nov. 02 Supp.)*

(Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

(Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

(Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

(Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

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

CHAPTER 19

CITY TREASURER

19.01 City Treasurer

19.02 Duties of Treasurer

19.01 CITY TREASURER. The Director of Finance is the City Treasurer and performs all functions required of the position of 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 line item 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.
10. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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CHAPTER 20

CITY ATTORNEY

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

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

20.01 APPOINTMENT AND COMPENSATION. The Mayor shall appoint, subject to approval by the Council, a City Attorney. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall, upon request of the Council, give advice or a written legal opinion on contracts involving the

City and upon 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])

CHAPTER 21

CITY ADMINISTRATOR

21.01 Purpose
21.02 Appointment and Term
21.03 Compensation
21.04 Duties of City Administrator

21.05 Council - City Administrator Relations
21.06 Residence
21.07 City Administrator's Bond

21.01 PURPOSE. By virtue of the authority conferred by Chapter 372 of the Code of Iowa, the office of City Administrator for the City is hereby created.

21.02 APPOINTMENT AND TERM. The City Administrator is appointed by a majority vote of the Council at the regular meeting of such body. The City Administrator shall hold office at the pleasure of the Council and is subject to removal by a majority vote of the Council.

(Ord. 660 - Jul. 10 Supp.)

21.03 COMPENSATION. The City Administrator shall receive such annual salary as the Council shall, from time to time, determine by resolution, and the time of payment shall be fixed in accordance with that for the other City employees.

21.04 DUTIES. The City Administrator is the chief administrative officer of the City. The City Administrator is directly responsible to the Council for the administration of municipal affairs in the manner directed by the Council. The duties of the City Administrator include:

1. Law and Council Directives. See that all resolutions, ordinances, laws, Council and Mayor directives and approved operational policies are either faithfully enforced and executed or referred to the proper official for compliance thereof.
2. Council Meetings. Attend all meetings of the Council unless otherwise excused by the Mayor and Council.
3. Recommendations. Recommend to the Mayor and Council such measures as the City Administrator deems necessary or expedient for good, efficient government and the general welfare of the City.
4. Supervision and Administration. Have direct responsibility for the supervision, direction and administration of all City departments, offices, and all non-elected officials and be directly responsible to the Mayor and City Council for the proper function of the same:

(Ord. 851 – Jun. 16 Supp.)

5. Contracts. Be responsible for the supervision and performance of all contracts for work and services to be done for the City except as specified otherwise in said construction or service program involved.
6. Accounting. Maintain an accounting of all obligations, agreements, commitments and contractual franchises involving the City, and report to the Mayor and Council any deviations from the exact terms as specified therein.
7. Purchasing. Be authorized to direct the purchasing of all commodities, materials, supplies, capital outlay and services for all departments of the City that have been budgeted and appropriated by resolution of the Council, and enforce a program to determine that such purchases are received and are of the quality and character called for in the order.
 - A. The City Administrator shall require the taking of bids on all matters he or she deems advisable as required by law, or as directed by the Council.
 - B. The City Administrator may approve the purchase of budgeted items costing less than five thousand dollars (\$5,000.00), provided a budget amendment is not required. The City Administrator must first receive the approval by majority vote of the Council before authorizing the purchase of budgeted items costing in excess of \$5,000.00.
8. Employment Applications. Review and evaluate the applications for department head positions and make recommendations to the Council for approval. Applications for other positions will be reviewed with specific department heads.
9. Hiring, Promotion and Reclassification of Employees. With the Council's consent, employ, hire, terminate, promote or reclassify any City employee, within the limits established by the budget and relevant job description, for departments or areas under the City Administrator's supervision. The City Administrator shall immediately advise the Mayor and the Council of any employee's voluntary resignation or leave of absence. The City Administrator shall obtain a resolution from the Council for the hiring of department heads. *(Ord. 635 - April 09 Supp.)*
10. Employee Discipline. Subject to the requirements of State law, this Code of Ordinances and City personnel policies, after consultation with department head and with the consent of the Mayor, have the power to reprimand or to suspend without pay any employee for a period not to exceed three (3) days, or to discharge any City employee who has not

performed his or her duties in a satisfactory manner and promptly report same to Council.

11. Buildings and Equipment. Supervise the management of all buildings, structures and land under the jurisdiction of the Council and be charged with the care and preservation of all City-owned equipment, tools, machinery, appliances, supplies and commodities over which the City Administrator has specific authority.

12. Advise Mayor and Council. Keep the Mayor and Council fully advised of the financial and other conditions of the City.

13. Annual Budget. Assist the Mayor, Council, City financial officer and all department heads in preparing the annual budget in the manner as prescribed by law.

14. Business Affairs. See that all business affairs of the City are conducted by approved methods and in an efficient manner.

15. Records. Be responsible at all times for the maintenance of accurate and current records of all affairs of the departments under the jurisdiction of the City Administrator, and in a form acceptable to the Council. Copies of such records shall be available for public inspection except as otherwise prohibited by law.

16. Mayor. Provide administrative support and assistance to the Mayor and perform duties in the coordination of all phases of municipal activity as directed by the Mayor and Council.

17. Pay Plan. Recommend to the governing body a standard schedule of pay for each appointive office and position in the City service, including minimum, intermediate and maximum rates.

18. Attorney and Engineer. Coordinate the work of the City Attorney and City Engineer.

19. Functions and Services. Be responsible for the following functions and services:

- A. Budget control and finance;
- B. Insurance and public bonds;
- C. Capital Improvement and Planning;
- D. Search for funds and grants.

20. Liaison. Maintain liaison with citizens, businesses, developers, builders, engineers and other governmental agencies.

21. Other Meetings. Attend City, County, regional and any other meetings as requested by the Mayor and/or Council.

22. Delegated Powers. Perform duties and have direct authority on all matters delegated by Council action.

23. Other Duties. Perform such other duties as the Mayor or Council may direct.

24. Study. Continuously study the City government's operating procedures, organizations and facilities and recommend fiscal and other policies to the Council whenever necessary.

21.05 COUNCIL - CITY ADMINISTRATOR RELATIONS. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Administrator or Mayor. Neither the Council nor any member thereof shall give orders to any subordinates of the City Administrator, either publicly or privately.

21.06 RESIDENCE. The City Administrator shall, upon appointment and confirmation, reside within the City limits unless a waiver of this provision is obtained by Council resolution.

21.07 CITY ADMINISTRATOR'S BOND. The City Administrator shall execute and file a bond for the faithful performance of duties, and in favor of the City, in a sum as determined by the Council. The City shall pay the cost of such bond.

(Ch. 21 – Ord. 490 - Aug. 00 Supp.)

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library
22.02 Library Trustees
22.03 Qualifications of Trustees
22.04 Organization of the Board
22.05 Powers and Duties
22.06 Contracting with Other Libraries

22.07 Nonresident Use
22.08 Expenditures
22.09 Annual Report
22.10 Injury to Books or Property
22.11 Theft
22.12 Notice Posted

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of seven (7) resident members over the age of eighteen (18) years old. All members are to be appointed by the Mayor with the approval of the Council.
(Ord. 862 – Jun. 16 Supp.)

22.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for six (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 Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer serves as Board Treasurer, but is not a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and

bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

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

(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 (5) percent in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than 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)

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CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. 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)

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CHAPTER 24

PARKS AND RECREATION COMMISSION

24.01 Community Recreation District
24.02 Commission Created
24.03 Organization
24.04 Powers and Duties

24.05 Annual Report
24.06 Activities; Rules and Regulations
24.07 Suggestions to the Council

24.01 COMMUNITY RECREATION DISTRICT. There is hereby established a Community Recreation District, which shall consist of all publicly owned facilities and publicly sponsored events now forming a part of and lying within the City limits including all recreation activities within it, the Community Center and all territory which shall henceforth be annexed to and become a part of the City.

24.02 COMMISSION CREATED. The purpose of this chapter is to create a Hiawatha Parks and Recreation Commission to advise the Council on needed facilities to provide open spaces such as parks, playgrounds and community facilities for other forms of recreation.

24.03 ORGANIZATION. The Mayor shall appoint, and the Council shall approve, from the residents of said district, five (5) persons specially fitted for and interested in community recreation activities. The members of the Commission shall serve for a period of two (2) years, two members appointed in odd numbered years and three members appointed in even numbered years, and shall take office at the first Commission meeting of January in the year in which they are appointed. Vacancies shall be filled in the same manner as the original appointments. Members of the Commission shall serve without compensation, but may receive their actual expenses. Expenses incurred in the maintenance of the Community Recreation District will be paid out of the Parks and Recreation operating budget but only after being allowed and ordered to be paid by the Council.

24.04 POWERS AND DUTIES. The Parks and Recreation Commission shall have charge of the Community Recreation District, including any and all buildings or land allocated to its use from time to time by the Council. The Commission shall have the power to adopt its own rules, not inconsistent with those promulgated by the Council, but any rules adopted by the Commission which are in conflict with rules adopted by the Council shall be superseded thereby.

24.05 ANNUAL REPORT. The Commission shall make a written report to the Council during the budget process each year as to the operation of the Community Recreation District, including therein an account of the expenses of the Commission for the preceding year.

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

24.07 SUGGESTIONS TO THE COUNCIL. The Council shall request suggestions from the Commission and from such public spirited citizens as are interested in such development, and particularly in the welfare of children of the City, and shall carefully consider such suggestions, and shall thereafter determine and promulgate the rules and regulations which shall govern in the operation and management of the Community Recreation District. Such rules and regulations may thereafter be modified and changed from time to time by the Council.

(Ord. 707 – Aug. 11 Supp.)

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CHAPTER 25

UTILITY BOARD OF TRUSTEES

25.01 Purpose
25.02 Board Established
25.03 Appointment of Trustees
25.04 Compensation
25.05 Vacancies

25.06 Powers and Duties of the Board
25.07 Control of Funds
25.08 Accounting
25.09 Discriminatory Rates Illegal
25.10 Discontinuance of Board

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

25.02 BOARD ESTABLISHED. Pursuant to an election held October 6, 1959, the management and control of the municipally owned Water Utility were placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

25.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five (5) persons to serve as trustees for staggered six (6) year terms. No public officer or salaried employee of the City may serve on the utility board.

(Code of Iowa, Sec. 388.3)

25.04 COMPENSATION. The Council shall by resolution set the compensation of Board members.

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.3)

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

(Code of Iowa, Sec. 388.4)

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

Code of Iowa, Sec. 388.4[1])

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

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

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

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

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

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

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

(Code of Iowa, Sec. 388.5)

25.08 ACCOUNTING. Utility moneys are held in a separate utility fund.

(Code of Iowa, Sec. 388.5)

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

(Code of Iowa, Sec. 388.6)

25.10 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five (5) years.

(Code of Iowa, Sec. 388.2)

CHAPTER 26

HISTORICAL COMMISSION

26.01 Purpose and Intent
26.02 Mission Statement

26.03 Definitions
26.04 Powers of the Commission

26.01 PURPOSE AND INTENT. By this act, the City of Hiawatha expresses its support for the preservation and presentation of the history of the community as part of the quality of life it seeks to create and maintain. The Council acknowledges the value of its history in creating civic pride and spirit and desires to document and preserve the history of Hiawatha, Iowa.

26.02 MISSION STATEMENT. The mission of the Historical Commission is to collect and preserve historical materials that are necessary for the writing and publishing of works that reflect the past policies, programs and civic endeavors of its government and citizenry. Such material may include, but is not limited to, selected official City records, photographs, reports, biographical and autobiographical writings, oral histories and other vital records necessary for documenting the course of the community over extended periods of time.

26.03 DEFINITIONS.

1. Commission. The Hiawatha Historical Commission, as established by this chapter, will meet at least three (3) times a year. A simple majority shall constitute a quorum for the transaction of business. The act of a majority of a quorum is required for the Commission to take action. Meetings of the Commission shall be governed by the most recent publication of Robert's Rules of Order.
2. Officers. These officers shall be appointed bi-annually by the Commission members: A Chairman who shall preside at all Commission meetings; Vice Chairman, who shall act as Chairman when Chairman is absent, and a Secretary, who shall be responsible for maintaining written records of the Commission's proceedings which, once approved, will become part of the permanent records of the City. The office of Treasurer shall automatically be filled by the Finance Director of the City, unless the City Council appoints someone else.
3. Commission Members. Not less than seven (7) members who are residents of the City and who are appointed by the Mayor and approved by the City Council. Members will demonstrate a positive interest in local history, will serve without compensation and may serve for more than one term.

4. Appointments. To assure continuity, all members will serve staggered terms. To make this possible, the original appointments to the Commission shall be three members for one year, two members for two years and two members for three years. All terms of the Commission members thereafter shall be for three years and each shall start on January 1 following the year of such appointment.

5. Vacancies. Vacancies shall be only for the unexpired portion of the term of the member replaced, which will be filled as provided in subsection 3.

26.04 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for documentation of Hiawatha's local history. The Commission may proceed at its own initiative or upon a petition approved by the Commission from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.

2. In addition to those duties and powers specified above, the Commission may make recommendations to the City Council to:

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historical documentation.

B. Contract with the state or the federal government or other organizations.

C. Cooperate with the federal, state and local government in the pursuance of the objectives of historical records.

(Ch. 26 – Ord. 607 – Apr. 08 Supp.)

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CHAPTER 30

POLICE DEPARTMENT

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

30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Police Chief Residency Requirement

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, subject to Council approval, the Police Chief. The Mayor and the Police Chief shall hire the other members of the department. The Mayor, with the Council's approval, may remove the Police Chief.

(Code of Iowa, Sec. 372.4)

(Ord. 636 - April 09 Supp.)

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. *(Repealed by Ord. 641 – Feb. 10 Supp.)*

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, 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, 804.18)

30.11 POLICE CHIEF RESIDENCY REQUIREMENT. The Chief of Police shall reside no more than five miles from the corporate limits of the City.

(Ord. 603 – Aug. 07 Supp.)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Training
35.04 Compensation
35.05 Fire Chief and Deputy Chiefs
35.06 Firefighters Selected
35.07 Fire Chief: Duties
35.08 Duties of Deputy Fire Chiefs

35.09 Obedience to Officers
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Supplemental Responders

35.01 ESTABLISHMENT AND PURPOSE. A fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety. The department also has the authority to operate an ambulance service to respond to emergency medical calls and to treat and assist citizens with medical emergencies. The Fire Department also has the authority to answer emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

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

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

35.03 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

(Code of Iowa, Sec. 372.13[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 AND DEPUTY CHIEFS. The offices of Fire Chief and Deputy Chiefs are hereby created. The Mayor shall appoint, subject to Council approval, the Fire Chief. The Fire Chief shall appoint, subject to Council approval, the Deputy Chief's. Said appointments may be made from within or outside the department provided such appointment possess the qualifications as defined in the job descriptions of the City Employment Policy, Benefits and Procedures manual.

(Ord. 852 – Jun. 16 Supp.)

35.06 FIREFIGHTERS SELECTED. The Fire Chief shall recommend, and the Council shall approve, not to exceed 75 full-time, part time, or volunteer firefighters and emergency medical only personnel. The Fire Chief shall recommend for the Council's approval company grade officers within the department in accordance with the qualifications defined in the job descriptions of the City Policy, Benefits and Procedures manual. The Fire Chief may appoint up to 10 reserve volunteer members in addition to those 75.

(Ord. 852 – Jun. 16 Supp.)

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 fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, Sec. 102.3)

6. Command. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members

of the fire department shall, at all times, be subject to the direction of the Fire Chief.

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of 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 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, fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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

35.08 DUTIES OF DEPUTY FIRE CHIEFS. The Deputy Fire Chiefs shall perform such duties as shall be delegated by the Fire Chief and shall perform all of the duties of the Fire Chief during the absence or inability of the Fire Chief.

35.09 OBEDIENCE TO OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief or other officers.

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

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

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

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

35.12 CALLS OUTSIDE CITY. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

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

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

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

(Code of Iowa, Sec. 100.41)

35.15 SUPPLEMENTAL RESPONDERS. Up to three (3) employees of other City departments, may be appointed as supplemental responders. The Fire Chief, as provided in Section 35.06 of this chapter, shall make all appointments of supplemental responders. Supplemental responders will operate under Medical Control, procedures, guidelines and standing orders that are currently in place at the Fire Department.

(Ch. 35 – Ord. 790 – Aug. 14 Supp.)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

(Code of Iowa, Sec. 455B.381[4])

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

Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

(Code of Iowa, Sec. 455B.381[5])

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

(Code of Iowa, Sec. 455B.381[7])

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

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

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

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, which shall then notify the Department of Natural Resources.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

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

No person shall disobey an order of any law enforcement officer issued under this section.

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

40.06 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, or writing 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 a public offense.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Ord. 592 - Oct. 06 Supp.)

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. Except for professional matches or contests licensed by the labor commissioner under Chapter 90A of the State Code and Rules 875-172 through 875-177 of the Iowa Administrative Code, no holder of a liquor control license and/or wine or beer permit under Chapter 123 of the State Code, nor 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 contest, events or exhibitions to occur on the premises covered by the license and/or permit.

(Ord. 614 - Apr. 08 Supp.)

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public
Safety Entities
41.03 Refusing to Assist Officer
41.04 Harassment of Public Officers and Employees
41.05 Abandoned or Unattended Refrigerators
41.06 Antenna and Radio Wires

41.07 Barbed Wire and Electric Fences
41.08 Discharging Weapons and Firearms
41.09 Throwing and Shooting
41.10 Urinating and Defecating
41.11 Pseudoephedrine Restrictions
41.12 Illegal Use of Fireworks

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 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)

41.06 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])

41.07 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 except as allowed in the Building Code unless such land consists of ten (10) acres or more and is used as agricultural land.

41.08 DISCHARGING WEAPONS AND FIREARMS.

1. It is unlawful for any person to discharge or cause to be discharged any bow or cross bow which propels any arrow, or to discharge or cause to be discharged any rifles, shotguns, revolvers, pistols, guns, BB guns, pellet guns, sling shots, air rifles, paintball guns or other weapons or firearms of any kind within the City limits, except by written consent of the City Council and approved by the Hiawatha Police Chief.

2. This section shall not apply to any person discharging shotguns with bird shot for target practice or for hunting purposes on private land of at least three (3) acres zoned "A-Agriculture" provided the person has permission from the property owner.

(Ord. 686 – Jan. 11 Supp.)

3. This section shall not apply to any person discharging any bow or cross bow which propels any arrow for target practice or for hunting purposes on private land zoned "A-Agriculture" provided the person has permission from the property owner.

4. Any hunting or use of any weapon or firearm shall in all other respects be carried out in strict compliance with all rules and regulations applicable to hunting as promulgated from time to time by the Iowa Department of Natural Resources.

5. No person shall intentionally discharge or cause to be discharged any weapon or firearm in a reckless manner.

(Ord. 667 – Jul. 10 Supp.)

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

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

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

41.11 PSEUDOEPHEDRINE RESTRICTIONS. *(Repealed by Ord. 579 - Sep. 05 Supp.)*

41.12 ILLEGAL USE OF FIREWORKS.

1. A person, firm, partnership, or corporation who sells consumer fireworks to a person who is less than eighteen years of age commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars. A person who is less than eighteen years of age who purchases consumer fireworks commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

2. A person age eighteen or older may use or explode consumer fireworks during the following designated times:

July 4th from 12:00 p.m. to 11:00 p.m.

December 31st from 6:00 p.m. to 12:30 a.m. on January 1.

(Ord. 885 – Dec. 17 Supp.)

3. A person who uses or explodes consumer fireworks or novelties while the use of such devices is prohibited or limited by an ordinance adopted by the City in which the fireworks are used commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

4. A person who uses or explodes consumer fireworks or novelties while the use of such devices is suspended by an order of the state fire marshal commits a simple misdemeanor, punishable by a fine of not less than two hundred fifty dollars.

(Sec. 41.12 – Ord. 882 – Dec. 17 Supp.)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft

42.01 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 private 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 tangible 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)

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CHAPTER 43

RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

(Repealed by Ord. 662 - Jul. 10 Supp.)

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Repealed by Ord. No. 435

45.03 Public Consumption or Intoxication
45.04 Open Container on Streets and Highways

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])

(Ord. 435 - Dec. 97 Supp.)

45.02 PERSONS AGE EIGHTEEN, NINETEEN AND TWENTY.

(Repealed by Ord. 435 - Dec. 97 Supp.)

45.03 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 or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

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

(Code of Iowa, Sec. 123.46)

45.04 OPEN CONTAINER ON STREETS AND HIGHWAYS. *(See Section 62.08 of this Code of Ordinances.)*

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.01 CURFEW. A curfew applicable to minors is established and shall be enforced as follows:

1. Definition. The term “minor” means in this section, any unmarried person below the age of sixteen (16) years.
2. Time Limits. 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 eleven o’clock (11:00) p.m. m. and five o’clock (5:00) a.m. of the following day.
3. Exceptions. The restriction provided by subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 46.01(2), except as otherwise provided in subsection 46.01(3).

(Code of Iowa, Sec. 613.16)

5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by subsection 46.01(2) except as otherwise provided in subsection 46.01(3).
6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall

be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

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.

(Ord. 494 – Oct. 00 Supp.)

(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)

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose	47.12 Nuisance
47.02 Definitions	47.13 Destruction of Plant Life
47.03 Hours	47.14 Sales Prohibited
47.04 Public Meetings	47.15 Sound Equipment
47.05 Littering	47.16 Reservations
47.06 Travel and Speed	47.17 Notices or Signs
47.07 Parking	47.18 Snowmobiles Prohibited
47.08 Hunting or Trapping	47.19 Golf
47.09 Dangerous Instruments	47.20 Animal Control
47.10 Fires	47.21 Alcoholic Beverages
47.11 Camping Areas	47.22 Posting Rules

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

(Code of Iowa, Sec. 364.12)

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

1. “Park” means any ground owned or leased by the City and set apart as parks and pleasure grounds or like purposes within or without the City, and all buildings and fixtures on said grounds.
2. “Vehicle” means any motor driven apparatus or trailers of any type.

47.03 HOURS. All public parks shall be closed from ten-thirty o’clock (10:30) p.m. to six o’clock (6:00) a.m. each day. No person other than a municipal employee on duty, law enforcement officer or person authorized by written permission from the Parks and Recreation Commission shall be present on park grounds during those hours, unless the use is limited to a particular recreational facility which is posted for use after 10:30 p.m.

47.04 PUBLIC MEETINGS. Public meetings, religious, political or otherwise, including picnic parties and entertainment for charitable or religious purposes, may be held in any public park upon first obtaining permission from the Director of Parks and Recreation. Such assemblages shall be conducted in a lawful and orderly manner and shall occupy such ground or building as may be assigned to or reserved for them.

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

47.06 TRAVEL AND SPEED. No person shall ride or drive any motorized vehicle or animal of any nature upon any sidewalks, walking paths, walkways, bikeways, cement areas or grass areas within the confines of the City parks. No person shall ride or drive in any public park except upon established roadways except City vehicles or private vehicles by written permission from the Parks and Recreation Commission and shall not exceed ten (10) miles per hour at any time.

47.07 PARKING. No person shall park automobiles or other vehicles in any public park except in places designated by the Parks Department. No vehicle shall be parked in such a manner as to obstruct any drive or roadway. Overnight parking of any vehicle is prohibited in any park except by written permission of the Parks and Recreation Director.

47.08 HUNTING OR TRAPPING. Hunting or trapping on park grounds is prohibited.

47.09 DANGEROUS INSTRUMENTS. No person shall use firearms, BB guns, slingshots, javelins, bows and arrows, firecrackers, fireworks, or explosives of any character and other dangerous instruments or toys on park grounds except in areas designated by the Parks and Recreation Commission and those carried by law enforcement officers in the performance of their duties.

47.10 FIRES. Fires are prohibited except in fireplaces, fireboxes or other designated areas.

47.11 CAMPING AREAS. No person shall camp in any portion of a park except in areas prescribed or designated by the Parks and Recreation Commission or by written permission of the Parks and Recreation Commission.

47.12 NUISANCE. No person shall use any loud, violent, obscene or profane language while in any park, or behave in a disorderly or obscene manner or commit any nuisance upon the grounds.

47.13 DESTRUCTION OF PLANT LIFE. Cutting, digging or removal of any tree, bush or plant material including wood, turf, soil, rock, sand or gravel except by City employees is prohibited, except as authorized by written permission of the Parks and Recreation Director.

47.14 SALES PROHIBITED. No services shall be rendered for a fee or merchandise sold or made available or business of any kind transacted or entertainment given for a fee in any park except by permission of the Parks and Recreation Commission.

47.15 SOUND EQUIPMENT. Use of musical instruments with sound amplifiers or sound equipment that includes sound amplifiers is prohibited in all public parks except as authorized by a park pavilion rental form.

47.16 RESERVATIONS. The park grounds, picnic areas, pavilions and sports areas are intended for use by the citizens of the City on a first come, first served basis, subject to the following:

1. Persons or organizations having reservations shall have priority in that area of park grounds, picnic area, pavilions or sports area during the times and dates stated on said permit or reservation.
2. Application for reservations shall be made to the Parks and Recreation Department at Hiawatha City Hall.
3. Fees for reserving a pavilion are established by resolution of the Council.

47.17 NOTICES OR SIGNS. No person shall enter upon portions of the grounds in disregard of signs or notices posted by the Parks and Recreation Commission forbidding the same, except City employees in the performance of their duties. No person shall post, paste, fasten, paint or affix any placard, bill, notice, or sign upon any structure, tree, stone, fence or enclosure along or within any park, except City employees in the performance of their duties.

47.18 SNOWMOBILES PROHIBITED. Operation of snowmobiles is prohibited in any public park except in designated areas or trails.

47.19 GOLF. No person shall play, practice or otherwise hit a golf ball in any manner in any park except in designated areas.

47.20 ANIMAL CONTROL. The following rules and regulations apply to animals in public parks:

1. No horses, ponies, mules or donkeys are permitted, except in designated areas and trails or by permission by the Parks and Recreation Commission.
2. No owner of any animal shall allow the animal to be in or within fifty (50) feet of any splash pad or recreation area in a City park, except properly trained guide dogs are permitted in and within fifty (50) feet of pavilions.

3. No animal shall be allowed in any public park unless it is attached to a leash not more than six (6) feet in length and having sufficient strength to restrain the animal, and the leash must be held by a person capable of restraining and controlling the animal.

4. All excrement or droppings from an animal in a public park shall be immediately cleaned up by the person in charge of the animal and deposited in a sanitary and enclosed litter bag and disposed of in a sanitary manner.

47.21 ALCOHOLIC BEVERAGES. No person shall bring, use, consume or have in his or her possession in a City park, beer in a keg or any other container larger than one quart, except beer permit holders and suppliers or vendors authorized by the Council. Permit holders vending beer in City parks must provide for adequate law enforcement. No person shall bring, use or consume beer in or within any playing area, fields or courts. All other types of alcoholic beverages are prohibited in City parks.

47.22 POSTING RULES. Printed copies of the rules set out in this chapter shall be posted in conspicuous places in the public parks of the City.

(Ord. 708 – Aug. 11 Supp.)

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Notice to Abate: Contents
50.07 Method of Service
50.08 Request for Hearing

50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate
50.14 Weed Control Procedure
50.15 Keeping Disorderly House

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

(Code of Iowa, Sec. 657.1)

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

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

(Code of Iowa, Sec. 657.2[1])

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

(Code of Iowa, Sec. 657.2[2])

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

(Code of Iowa, Sec. 657.2[3])

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

(Code of Iowa, Sec. 657.2[4])

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

(Code of Iowa, Sec. 657.2[5])

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

(Code of Iowa, Sec. 657.2[7])

7. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.

(Code of Iowa, Sec. 657.2[8])

8. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction.

(Code of Iowa, Sec. 657.2[10])

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

(Code of Iowa, Sec. 657.2[11])

10. Grass, 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. Each owner and each person in possession or control of any property shall be responsible to keep said lot, along with parking adjacent thereto, alleys, public ways or areas up to the centerline of said ways free of any noxious weeds and to keep grasses and weeds on said lot mowed so that grass and weeds are less than 8 inches in height. However, grass and weeds located on undeveloped and unplatted property located more than 100 feet from developed or platted property shall be mowed so that grass and weeds are less than 18 inches in height.

(Ord. 553 - Sep. 04 Supp.)

(Code of Iowa, 657.2[12])

11. Dutch Elm Disease. Trees infected with Dutch Elm Disease.

(Code of Iowa, Sec. 657.2[13])

12. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such

object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, Sec. 657.2[9])

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

(Code of Iowa, Sec. 657.2[6])

14. Stagnant Water. All ponds or pools of stagnant water.

15. Diseased Animals. All diseased animals running at large.

16. Animal Carcasses. Carcasses of animals not disposed of within twenty-four (24) hours after death, as provided by law.

17. Effluent from Septic Tank. Effluent from septic tank or drain field running or ponding on the ground in the open.

18. Obstructing Streets, Sidewalks, Parkings and Drains. Obstructing or impeding by placement of any article or substance upon or in any street, alley, sidewalk, parking, gutter, drainage ditch, sewer or catch basin.

19. Wires. All wires which are strung less than fifteen (15) feet above the surface of the ground.

20. Obscene Language. The public use of profane or obscene language.

21. Pollution. The pollution of any public well or cistern, stream or other body of water by sewage, creamery or industrial wastes or other substances.

22. Unsecured Areas. Failure to secure areas, buildings or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance to children.

23. Explosives. All explosives, inflammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by this Code of Ordinances.

24. Fireworks. All use or display of fireworks, except as provided in this Code of Ordinances.

25. Noise. All unnecessary noise and annoying vibrations.
26. Slaughter Houses. Slaughter houses which are kept in such a condition as to be offensive or annoying to the public.
27. Communicable Diseases. Exposure of any person to any communicable disease by unlawful act or practice.
28. Drugs and Chemicals. The unlawful manufacture, formulation, sale, distribution and/or use of drugs, medication, devices, materials and/or chemicals.
29. Privy Vaults. Any privy, the vault of which is less than five (5) feet deep, unless it has connection with the public sewer; privies that emit or cause an offensive or noxious or disagreeable smell or odor; privies which do not conform in their construction with the rules of the County Board of Health; privies which are not watertight and are located within seventy-five (75) feet of any well, spring or other source of water used for drinking or culinary purposes; privies and septic tank systems on land abutting a sanitary sewer.

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Dangerous Buildings (**See Chapter 145**)
3. Drug Paraphernalia (**See Chapter 52**)
4. Connection to Public Sewer and Drainage Systems (**See Chapters 95 through 99**)
5. Storage and Disposal of Solid Waste (**See Chapter 105**)
6. Numbering of Buildings (**See Chapter 150**)
7. Trees (**See Chapter 151**)

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. As used in this chapter, the term

“property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

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

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.07 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

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

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Ord. 839 – Oct. 15 Supp.)

(Code of Iowa, Sec. 364.13)

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

50.14 WEED CONTROL PROCEDURE. The following special abatement procedure is applicable, in addition to any other procedure, to the control of weeds.

1. Notice Provided. The enactment and posting and annual posting of this section on or before May 1 each year shall constitute notice of its provisions to all property owners to comply with the terms thereof, and such notification shall be construed as due notice as required by Section 364.12[3h] of the Code of Iowa.

2. Removal by City. In the event that any property owner fails to comply with such notice by May 15 of any given year, then a person duly designated by the Mayor or City Administrator shall destroy or remove any such weeds as defined in subsection 50.02(10) of this chapter without further notice.

(Ord. 490 – Aug. 00 Supp.)

3. Subsequent Deadline of Notice. June 1, July 1, August 1 and September 1 are subsequent deadlines for additional cutting of such weeds, but said annual posting of this section shall be deemed due notice for all subsequent deadlines. The intent of this subsection is to require the removal of weeds a minimum of every 30 days from May 1 through October 1.

4. Grading or Leveling. In the event any such nuisance cannot be cut, removed or destroyed by the usual and ordinary methods because of the terrain or rough surface of the property, then the person designated to remove or destroy the weeds may cause the property to be graded or otherwise leveled sufficiently so that such cutting, removal or destruction can be accomplished.

5. Additional Control Required. In addition to the May 1, June 1, July 1, August 1 and September 1 deadlines, the Council or its duly authorized representative may from time to time require the property owner to cut, remove or destroy such public nuisances as described in subsection 50.02(10) at other times during any year, and for this purpose shall give the property owner a notice in writing by ordinary or certified mail to the last known mailing address of said property owner, and if the property owner fails to abate the public nuisance by the date designated in said written notice, then the person designated to remove or destroy the weeds shall abate the nuisance and the cost thereof shall be assessed as provided in this section. Notice shall be by ordinary or certified mail at least five (5) days before the designated deadline, but notice may be waived by the property owner.

6. Costs Assessed. When the duly designated person has completed the abatement of any such nuisance after any deadline as established herein for the abatement of a public nuisance under the provisions of this section, such person shall certify the costs and expenses thereof to the Clerk, who shall notify the property owner of said costs by ordinary or certified mail. Any assessments unpaid thirty (30) days after levy shall be certified to the County Treasurer for collection in the same manner as other special assessments.

(Ord. 478 – Aug. 99 Supp.)

50.15 KEEPING DISORDERLY HOUSE.

1. Prohibited. No person shall permit or suffer to continue, without taking legal steps to prevent the same, any quarreling, fighting, disorderly conduct, or any other conduct or condition that threatens injury to persons or damage to property, or loud, raucous, disagreeable noises to the disturbance of the neighborhood, or to the disturbance of

the general public, upon any premises owned by the person or in the person's possession. For the purposes of this section, "to the disturbance of the general public" includes the disturbance of persons beyond the subject premises and/or to the disturbance of persons upon public places, including peace officers.

2. Authority to Restore Order and Disperse; Failure to Disperse. Upon issuance of a citation for a violation of this section, any peace officer of the City shall have authority to restore order upon the subject premises, up to and including ordering the dispersal of person(s) from the subject premises. Any person who fails or refuses to obey and abide by such an order shall be guilty of a violation of this section.

(Ord. 582 – Feb. 06 Supp.)

EDITOR'S NOTE

A suggested form of notice for the abatement of nuisances is included in the appendix of this Code of Ordinances.

Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the Code of Iowa rather than this procedure.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. "Hobby vehicle" means an unlicensed motor vehicle, including but not limited to dragsters, stock cars, Indy-type racers, midget racers, all-terrain vehicles, dune buggies, go-carts, or competition pulling garden or farm tractors. For the purpose of this chapter, golf carts, boat trailers, common utility trailers, camping trailers or snowmobile trailers are not considered hobby vehicles.

2. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

3. "Junk vehicle" means a vehicle which has any of the following characteristics:

A. Inoperable. Any vehicle not capable of being driven from the place of its location under its own power without the addition of parts or repair thereon.

B. Tires. Any vehicle not equipped with four inflated tires.

C. Broken, Missing or Loose Part. Any vehicle with a broken, missing or loose fender, door, bumper, hood, steering wheel, trunk lid, or windshield.

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

E. Flammable Fuel. Any unlicensed vehicle which contains gasoline or any other flammable fuel.

F. Unlicensed. Any vehicle not displaying a current year license plate, one month after such license is required.

(Ord. 713 – Jan. 12 Supp.)

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

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

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

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

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

1. Structure. Within a garage or other enclosed structure; or
2. Salvage Yard. Within an auto salvage yard or junk yard lawfully operated within the City; or
3. Repair or Restoration. On premises owned or occupied by the owners of vehicles which are inoperable solely by reason of repair or restoration being done thereon, provided the following conditions are met:
 - A. The period of repair of a vehicle or restoration of an automobile does not exceed thirty (30) days;
 - B. Such activity does not become offensive to the adjacent property occupants.

51.05 NOTICE TO ABATE. Upon discovery of any junk, hobby vehicle, or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

CHAPTER 52

DRUG PARAPHERNALIA AND SYNTHETIC DRUGS

52.01 Purpose

52.02 Controlled Substance Defined

52.03 Drug Paraphernalia Defined

52.04 Determining Factors

52.05 Possession of Drug Paraphernalia

52.06 Manufacture, Delivery or Offering For Sale

52.07 Synthetic Drugs Defined

52.08 Possession, Manufacture, Delivery or Offering for
Sale of Synthetic Drugs

52.09 Proof of Sale for Synthetic Drugs

52.01 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.

52.02 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.

52.03 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.

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

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

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

52.05 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.

52.06 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.

52.07 SYNTHETIC DRUGS DEFINED. As used in this section:

1. “Synthetic Cannabinoids” and/or “Synthetic Marijuana” shall mean any herbal or plant material which has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the herbal or plant material, or the smoke emitted from its burning, to mimic or simulate the effects of a controlled substance when inhaled, ingested, or otherwise introduced into the human body. Street names for such products include, but are not limited to: Bliss, Black Mamba, Bombay Blue, Fake Weed, Genie, Spice, Zohai, K2, K3, Smoke, Pot-Purri, Buzz, Spice 99, Voodoo, Pulse, Hush, Mystery, Earthquake, Stinger, Ocean Blue, Serenity, Chronic Spice, Spice Gold, Spice Silver, Skunk, Mr. Nice Guy, Mr. Happy, K3 Legal, Sence, Smoke, Chill X, Earth Impact, Galaxy Gold, Space Truckin, Solar Flare, Moon Rocks, Aroma, Scope, Sky High, Atomic, G-20, Guerrilla, Warfare, Makes Scents, g-13, Tiger Matrix, Hypnotiq, AK47, Maui Wowie, Cloud 9 Daylights, Joker, Dead man Walking, Brain Storm, Soul Sence, Kush, Kush Mania, Dragons Fire, Lucid, Mad Hatter, Scooby Snax, D-ZL, OMG, Demon, Barley In, Pineapple Express and Hayze.
2. “Bath Salts,” “Synthetic Cathinones” and/or “Synthetic Stimulants” shall mean any crystalline or powdered product in crystalline, loose powder, block, tablet, or capsule form, or any stimulant-type product which has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the product, or the smoke emitted from its burning, to mimic or simulate the effects of a controlled substance when inhaled, ingested, or otherwise introduced into the human body. Street names for these products include, but are not limited to: Bliss, Blue Silk, Cloud Nine, Drone, Energy-1, Ivory Wave, Lunar Wave, Meow Meow, Ocean Burst, Pure Ivory, Purple Wave, Red Dove, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Knight, White Lightening, Blizzard, Bonzai Grow, Charge Plus, Charlie, Euphoria, Hurricane, Lunar Wave, Ocean, Pixie Dust, Posh, Scarface, Lovely Dovey, Aura, MDPV, MDPK, MTV, Maddie, Hurricane Charlie, Black Rob, Super coke, PV, Peeve, Meph, Drone and MCAT.
3. “Drug” shall mean an article that is intended to affect the function of the body of humans.
4. “Misbranded drug” means a drug for which (A) the label is in any way false or misleading; (B) the label does not bear the name and place of business of the manufacturer, repackager, or distributor of the finished form of the drug; (C) the label does not bear adequate directions for use; or (D) the label does not bear adequate warnings against use.
5. “Illicit street drugs” means drugs which are trafficked and/or consumed illegally.
6. “Illicit synthetic drugs” means synthetic equivalents of the substances contained in the Cannabis plant, or in the resinous extractives of such plant, and synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant. “Illicit synthetic drugs” shall include, but not necessarily limited to, synthetic cannabinoids, synthetic marijuana, bath salts, synthetic cathinones, synthetic stimulants and misbranded drugs. The following factors, taken in the totality of the circumstances, may be considered evidence a product, substance or other material is an illicit synthetic drug:

- A. Marketing: A product routinely advertised as having a purpose for which it is rarely, if ever, suitable to be used. Such advertised purposes include, but are not limited to, as incense, potpourri, food additive, therapeutic bath crystals, plant food, insect repellant, iPod cleaner or glass cleaner.
 - B. Sales Location: Products displayed and sold in businesses such as liquor stores, smoke shops, and gas/convenience stores where such advertised products typically are not sold.
 - C. Labels and Packaging:
 - (1) Products labeled as common, non-consumable products which contain warnings not normally found on such products, such as, but not limited to, “not for human consumption” or “not for purchase by minors”
 - (2) Products containing notices on the package not normally found on similar products such as, but not limited to, “does not contain any chemical compounds prohibited by state law,” “contains no prohibited chemicals,” “product is in accordance with State and Federal laws,” “does not contain AM2201 or any DEA banned substance,” “legal herbal substance,” “100% complaint guaranteed,” “100% chemical free” and “100% synthetic free”
 - (3) Products the package labeling of which suggests the user will achieve a “high,” euphoria, relaxation, mood enhancement or other effect on the body.
 - D. Price: The price of the advertised product is significantly more expensive than other products marketed in the Cedar Rapids Metro area for the same or similar use.
 - E. Misleading Directions: The product contains directions for the product’s use, which are not consistent with the type of product advertised.
 - F. Similarly to Illicit Street Drugs:
 - (1) Products designed to make the substance similar in appearance to illicit street drugs; and/or
 - (2) Products advertised using brand names and packaging designed to make the product similar in appearance to illicit street drugs, or labeled with names similar to commonly used street slang for illicit street drugs; which names or labeling have no relation to the advertised use of the product being sold.
 - G. Ingredients: A product which has been enhanced with a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product but mimics the effects of a controlled substance when the product, or the smoke from the burned product, is introduced into the human body.
 - H. Verbal or Written Representations: Verbal or written representations made at the place of sale or display regarding the purpose, methods, use, or effect of the product.
7. “Premises” includes all or part of any structure located on a lot parcel of land, in addition to the lot or parcel of land surrounding the structure.

8. “Synthetic Chemical” or “Synthetic Chemical Compound” refers to a chemical or chemical compound whose molecular make up is similar to those substances the intended primary use of which is to mimic the effects of a controlled substance when introduced into the human body.

52.08 POSSESSION, MANUFACTURE, DELIVERY OR OFFERING FOR SALE OF SYNTHETIC DRUGS. It shall be unlawful for any person to possess, distribute, provide, give away, sell, offer or advertise for sale, or publically display for sale any illicit synthetic drug. Any owner, property manager or lessee of any premises where such unlawful activity takes place may be deemed to have engaged in such unlawful activity, despite not actively participating in such unlawful activity, if that owner, property manager or lessee knew, or reasonable should have known, such unlawful activity was occurring on the premises.

52.09 PROOF OF SALE FOR SYNTHETIC DRUGS. It shall not be necessary to prove payment in order to prove a sale within the meaning and intent of this chapter.

(Subsections 52.07-52.09 – Ord. 822 – Feb. 15 Supp.)

CHAPTER 52A

CLANDESTINE LABORATORIES/GROW OPERATIONS

52A.01 Definitions

52A.02 Cleanup and Nuisance Abatement Required

52A.03 Removal of Placards and/or Release From Impound

52A.04 Public Records

52A.05 Police Authority

52A.06 Penalties

52A.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. “Building or structure” shall include apartments, single-family homes, garages, hotel/motel rooms, mobile homes, rooms for rent, duplex dwellings, or any other building or structure.
2. “Clandestine laboratory/grow operation” means a location or operation, including but not limited to buildings, structures, vehicles, trailers, or mobile homes, equipped with glassware, heating devices, hardware, containers, lighting, heating devices, humidity control devices, and fertilizers, precursors or related reagents and solvents needed to unlawfully prepare or manufacture controlled substances as defined in Chapter 124 of the Iowa Code.
3. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, disassemble, treat, remove, or otherwise disperse all substances and materials, including but not limited to those found to be hazardous as defined in Section 455B.411 of the Iowa Code and controlled substances as defined in Chapter 124 of the Iowa Code, including contamination caused by those chemicals or substances.
4. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, and other substances as defined in Chapter 124 and sections 455B.11 and 455B.381 of the Iowa Code.

52A.02 CLEANUP AND NUISANCE ABATEMENT REQUIRED.

1. Whenever any portion of a building, structure, vehicle or home has been used as part of a clandestine laboratory/grow operation as in the making, manufacturing or “cooking” of methamphetamine or any other controlled substance as defined within Iowa Code Chapter 124, as determined by the Hiawatha Police Department, other state or federal law enforcement agency and/or certified peace officer having jurisdiction within the Hiawatha City limits, those portions of building(s) or structure(s) shall be deemed a nuisance.

A. If the entire building or structure is declared to be a nuisance under this chapter, it shall be vacated, placarded, and remain abandoned until the following conditions are met:

(1) The owner or landlord shall apply to the City Building Department for a permit to abate the nuisance. No abatement work on the property shall begin until such permit is issued by the City. Permit applications will be given priority by City Officials to expedite abatement, and any delays caused solely by the City will not be held against the property owner.

(2) The owner or landlord, at his or her own expense, shall provide certification from an American Board of Industrial Hygiene (ABIH) Certified Industrial Hygienist that the known hazardous substances associated with a clandestine laboratory/grow operation process have been eliminated or reduced to the point that it is again safe to occupy the structure prior to the issuance of a new certificate of occupancy.

B. If a portion of a building or structure is declared to be a nuisance under this chapter, that portion will be placarded, vacated and remain abandoned until the conditions of § 52A.02(1)(A) are met. Those portions of the building or structure shall be tested by an American Board of Industrial Hygiene (ABIH) Certified Industrial Hygienist as set forth in § 52A.02(2–4). All other portions of the building or structure where other residents, tenants, and/or businesses or individuals are located will be placarded with the following notice:

You are hereby notified:

The City of Hiawatha has identified and declared a portion of this building or structure to be a nuisance pursuant to Hiawatha Code Chapter 52A, Clandestine Laboratory/Grow Operation. The Owner/Landlord has 72 hours to test the portions of the building or structure declared to be a nuisance for the presence of hazardous substances. Portions of the building or structure that share common walls, floors, ceilings, and heating and/or cooling systems are also required to be tested. The Owner/Landlord will have thirty (30) days to abate the nuisance from all portions of the building so affected.

If you have questions or concerns, please contact your landlord, the Hiawatha Police Department at (319) 393-1212, or the Hiawatha City Building Department at (319) 393-1515.

- C. If a vehicle is declared to be a nuisance under this chapter, it will be vacated, placarded, and impounded at the owner's expense, leaving the contents of the vehicle intact, except for items collected as evidence, or items indentified by law enforcement as being a hazardous substance in need of immediate removal. The vehicle shall remain vacated and placarded until the owner, at his or her own expense, shall provide certification from an ABIH Certified Industrial Hygienist that the known hazardous substances associated with a clandestine laboratory/grow operation process have been eliminated or reduced to the point that it is again safe to occupy the vehicle.
2. The amount of methamphetamine residue, including the residue of precursor chemicals, present in the building, structure, or vehicle shall be no more than 0.1 micrograms per one hundred (100) square centimeters or less prior to the issuance of a new certificate of occupancy.
- A. Inspection and testing shall be done in each room of a single dwelling unit and shall include basement, attic areas, attached garage and heat and cooling duct systems.
- B. Inspection and testing shall be done in the passenger compartment, enclosed trunk area, and heat and cooling system of vehicles.
- C. Inspection and testing of structures other than dwelling units and exterior property areas shall be determined case by case based on the locations of hazardous substance storage, use, or disposal.
- D. Test sampling shall be performed in accordance with EPA Standard Operating Procedures 2001 and 2011.
- E. Clean up and disposal of properties, items, materials, or chemicals shall be done in compliance with all applicable state and federal standards and procedures, including personnel safety procedures.
3. Any time a garage that is attached to and/or shares a common access point to living quarters is used from a clandestine laboratory/grow operation, the making, manufacturing, or cooking of methamphetamine or any other controlled substance as defined within Iowa Code Chapter 124, the garage and living quarters will be deemed abandoned and unsafe until such time as the requirements of § 52A.02(1)(A) is met.
4. Anytime a clandestine laboratory/grow operation is found in a multi-unit building or structure, including a motel/hotel, inspection and testing shall take place in the adjacent unit(s) that share a common wall or floor/ceiling with the clandestine laboratory/grow operation. Additionally, testing will take place in any/all unit(s) sharing a common heating or cooling system with the clandestine laboratory/grow operation. Testing shall be completed within 72 hours of the posting of the original placard. Abatement shall be completed within 30 days of the posting of the original placard.

- A. Inspection and testing of adjacent units will be confined to rooms sharing the common wall or floor/ceiling unless test results show the presence of a hazardous substance. Inspection and testing will continue to expand to adjacent rooms, buildings or structures until such time that adjacent building(s) and structure(s) are in compliance with section 52A.02(1)(A).
- B. If the inspection and test results indicate that an adjacent unit(s) is contaminated by hazardous substances, it too shall be placarded to preclude occupancy until it can be brought into compliance.
5. A placard shall contain a nuisance abatement notice directed to the owner of the building(s), structure(s), or vehicle(s) to which it is attached. The notice shall state:

The City of Hiawatha has identified and declared [this building or structure] [portions of this building or structure] [this vehicle] to be a nuisance pursuant to Hiawatha Code Chapter 52A, Clandestine Laboratory/Grow Operation. You have 72 hours to test for the presence of hazardous substances. Any portions of the building or structure that share common walls, floors, ceilings, and heating and/or cooling systems with the affected areas are also required to be tested. You have thirty (30) days to abate the nuisance from [this building or structure] [all portions of the building or structure] [the vehicle] so affected.

If you have questions or concerns, please contact the Hiawatha Police Department at (319) 393-1212, or the Hiawatha City Building Department at (319) 393-1515.

52A.03 REMOVAL OF PLACARDS AND/OR RELEASE FROM IMPOUND.

1. All building(s) and structure(s), or portions of building(s) and structure(s), shall remain placarded for no occupancy until such time that test results are provided to the City of Hiawatha showing compliance with the standards as set forth in 52A.02(1)(A).
2. All vehicle(s) shall remain placarded for no occupancy and shall remain impounded at the owner's expense until such time that test results are provided to the City of Hiawatha showing compliance with the standards as set for in 52A.02(1)(C).

3. The prohibition of entrance into a placarded building, structure, or vehicle does not apply to city, county, state, and federal law enforcement officers, fire fighters, members of the city or county building departments, members of city, county, and state health departments, or those actively involved in the clean-up of the building(s), structure(s), or vehicle(s).

4. All vehicles meeting the criteria for disposal as an abandoned vehicle as described in Iowa Code Section 321.89, can and shall be disposed of following the guidelines set forth within the Iowa Code.

52A.04 PUBLIC RECORDS. The Police Department shall maintain a list, as a public record available for inspection by the public, of the addresses of all building(s), structure(s), or vehicle(s) that have been deemed a nuisance pursuant to this chapter. All entries will include the date the building, structure, or vehicle was declared a nuisance pursuant to this chapter and the date the building, structure, or vehicle was certified as safe to occupy. All entries shall remain on this list for not less than (3) years after being certified as safe to occupy, or in the case of methamphetamine manufacturing, below 0.1 micrograms per one hundred (100) square centimeters.

52A.05 POLICE AUTHORITY.

1. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

- A. Placard the building(s) and/or structure(s) deemed to be a nuisance.
- B. Placard and impound vehicle(s) deemed to be a nuisance.
- C. Evacuate persons from buildings and/or structures where clandestine laboratories/grow operations are located.
- D. Establish perimeters or other boundaries at or near the site of a clandestine laboratory/grow operation and limit access to cleanup personnel.

52A.06 PENALTIES.

- 1. No person shall disobey an order of any law enforcement officer issued under this section. Violation of an order by a law enforcement official pursuant this chapter shall constitute a simple misdemeanor.
- 2. Violation of this chapter is a municipal infraction and may be prosecuted pursuant to Chapter 4 of the Hiawatha City Code of Ordinances.

(Ch. 52A – Ord. 755 - Sep. 13 Supp.)

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CHAPTER 53

NOISE CONTROL

53.01 Definitions

53.02 Maximum Permissible Sound Levels

53.03 Noise Prohibitions and Limited Sound Sources

53.04 Measurement of Sound

53.05 Enforcement

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

1. “A-weighted Sound Level” means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dBA.
2. “Commercial” or “commercial district” means any property which is zoned for any commercial use as defined in the Zoning Ordinance, and on which there is no commercial use or residential use.
3. “Decibels” means a unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).
4. “Exhaust system” means the device or combination of devices that collects the exhaust from the engine or motor, delivers the exhaust to the atmosphere, and reduces the noise emissions. “Exhaust system” includes manifold or headers, exhaust pipe, muffler, and tail pipe.
5. “Gross vehicle weight rating” means the value specified by the manufacturer as the recommended maximum weighted load of a single motor vehicle. When trailers and tractors are separable, the gross combination weight rating is the value specified by the manufacturer as the recommended maximum loaded weight of the combined vehicle.
6. “Industrial” or “industrial district” means any property zoned for any industrial use as defined in the Zoning Ordinance, and on which there is no commercial use or residential use.
7. “Motor vehicle” means every vehicle which is self propelled.
8. “Noise disturbance” means any transmission of sound across a real property boundary from a source specifically limited by this chapter, which exceeds the sound level limits set forth in Table 1 entitled

“Maximum Permissible Sound Levels from Limited Sources by Receiving Land Use.”

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

10. “Receiving land use” means the use or occupancy of the property which receives the transmission of sound.

11. “Residential” or “residential district” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes. This definition does not include park custodial residences or school or college dormitories.

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

13. “Sound level” means the weighted sound pressure level contained by the use of the sound level meter and A-weighting network, such as a, b, or c as specified in American National Standards Institute Specification for Sound Level Meters, ANSI S1, 4-1971. If the frequency weighting employed is not indicated, the A-weighting shall apply.

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

15. “Sound pressure” means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

16. “Sound pressure level” means twenty times the logarithm to the base 10 of the ratio of the root mean squared sound pressure to the reference pressure of 20 micropascals.

17. “Used” or “occupied,” where either word appears, shall be deemed to include the words “intended, designed, or arranged to be used or occupied.”

53.02 MAXIMUM PERMISSIBLE SOUND LEVELS.

TABLE 1		
Maximum Permissible Sound Levels From Limited Sources by Receiving Land Use		
Zoning Category of Receiving Land Use	Legal Time	Sound Level Limit (dBA)
Residence District	7:00 a.m. to 10:00 p.m.	60
Residence District	10:00 p.m. to 7:00 a.m.	50
Commercial District	At all times	65
Industrial District	At all times	75 (20-83)

53.03 NOISE PROHIBITIONS AND LIMITED SOUND SOURCES.

The following sound sources are limited by this chapter:

1. Radios and Other Devices in Motor Vehicles. No person shall perform, create, cause, or permit a radio, television set, musical instrument, or any other device to produce, reproduce, or amplify sound to create a noise in excess of 86 dBA at 25 feet from such device when operated on a motor vehicle.
2. Muffler Cutouts. No person shall use a muffler cutout, bypass, or similar device on a motor vehicle on a public highway.
3. Vehicle Exhaust System. Every motor vehicle shall be at all times equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. (The intent of this provision is that it is necessary to prevent both noise and smoke, and either one constitutes a violation.) Noise which is measured at a distance of at least 25 feet from the near side of the nearest lane being monitored at a height of at least 4 feet above the immediate surrounding surface as follows is excessive or unusual noise:

Motor Vehicle Designation	Speed of 35 MPH or Less	Speed Over 35 MPH
Motor vehicles or a combination of vehicles towed by a motor vehicle with a manufacturer's gross vehicle rating or gross combination weight rating of 10,000 pounds or more	90 dBA or more	94 dBA or more
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	80 dBA or more	84 dBA or more

4. Animals and Birds. No person shall own, possess or harbor any animal or bird which frequently or for continued duration emits sounds native to the species which are a noise disturbance. Excepted from the provisions of this subsection are guide dogs for the blind and the deaf.

5. Radios, Television, Phonographs, etc. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound at a sound level which creates a noise disturbance. Church or clock carillons, bells or chimes; parades or processions, provided the conditions of the permit are met; mobile radio or telephone signal devices; and sanctioned racing events, are all excepted from the provisions of this subsection.

6. Lawn-mowing Equipment. No person shall use or operate or permit the use or operation of a power lawn mower, power trimmer or other gasoline or electric powered device intended for mowing or trimming a lawn between the hours of 10:00 p.m. and 7:00 a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter. No person shall use or operate or permit the use or operation of a gasoline powered lawn mower which does not have a muffler if such use or operation creates a noise disturbance as defined by this chapter.

7. Chain Saws. No person shall use or operate or permit the use or operation of a power chain saw between the hours of 10:00 p.m. and 7:00 a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

8. Solid Waste Collection and/or Hauling Equipment. No person shall use or operate or permit the use or operation of any solid waste collection and/or hauling equipment between the hours of 10:00 p.m. and 7:00 a.m. *(Ord. 737 – Feb. 13 Supp.)*

Governmental fire department equipment, and devices used by emergency vehicles or by governmental officials or organizations for authorized public purposes, are exempt from the provisions of this chapter.

53.04 MEASUREMENT OF SOUND. Sound level measurement from limited sound sources, for purposes of this chapter, shall be measured using a sound level meter at the real property boundary of the receiving property, or at a point reasonably proximate to the real property boundary and shall be measured at a height of 4 feet above the immediate ground surface.

53.05 ENFORCEMENT. The provisions of this chapter which prohibit the making, continuing, or causing the making or continuance of a noise disturbance shall be enforced only upon receipt of a complaint made or filed with City officials by a person disturbed by such noise disturbance. Certification by an official charged with enforcement of provisions of this chapter that such complaint was made shall be sufficient to establish the fact of complaint. However, peace officers may enforce violations of this section without the necessity of such complaint.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Golf Courses
55.02 Animal Neglect	55.13 Molesting Animals
55.03 Livestock Neglect	55.14 Rabies Vaccination
55.04 Abandonment of Cats and Dogs	55.15 Owner's Duty
55.05 Livestock	55.16 Confinement
55.06 At Large Prohibited	55.17 At Large: Impoundment
55.07 Damage or Interference	55.18 Disposition of Animals
55.08 Annoyance or Disturbance	55.19 Contract with Humane Society
55.09 Sanitation	55.20 Hold Harmless
55.10 Female Dogs or Cats	55.21 Pet Awards Prohibited
55.11 Releasing Animals	

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

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "At large" means off the premises of the owner, unless, with reference to a dog which is:
 - A. Attached to a leash or similar restraint not more than six (6) feet in length which is of sufficient strength to restrain the dog and which is held by a person capable of restraining and controlling the dog;
 - B. Properly restrained within a motor vehicle, housed within a veterinary hospital or kennel; or
 - D. Accompanied and "at heel" beside the owner or a competent responsible person.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.
(Code of Iowa, Sec. 717.1)
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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 animal 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 in compliance with the City's zoning regulations.

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow any dog or cat, whether licensed or unlicensed, or any suspected hazardous 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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

55.10 FEMALE DOGS OR CATS. A female dog or cat while in season shall be confined in an enclosure or building and not be permitted off the premises of its owner except while such animal is being transported.

55.11 RELEASING ANIMALS. No person except the owner shall willfully open any door or gate on any private premises for the purpose of enticing or enabling any animal to leave such private premises and to be at large.

55.12 GOLF COURSES. No animal is allowed on any golf course operated by the City.

55.13 MOLESTING ANIMALS. No person shall willfully molest, tease, provoke or mistreat any animal while confined on its owner's premises.

55.14 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog or cat in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in kennels and not allowed to run at large are not subject to these vaccination requirements.

55.15 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies or any communicable disease. In addition, every owner of an animal which is known or suspected to be suffering from rabies or which has been bitten by an animal infected with rabies shall also immediately report such fact to the local board of health.

(Code of Iowa, Sec. 351.38)

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

(Ord. 505 – Oct.-01 Supp.)

(Code of Iowa, Sec. 351.39)

55.17 AT LARGE: IMPOUNDMENT. Dogs, cats, and suspected hazardous animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.18 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 dog, by having it immediately vaccinated. If the owner fails to redeem the animal within five (5) business days from the date that the notice is mailed, or if the owner cannot be located within five (5) business days, the animal shall be disposed of in accordance with law or destroyed by euthanasia. *(Ord. 527 – Nov. 02 Supp.)*

(Code of Iowa, Sec. 351.37, 351.41)

55.19 CONTRACT WITH HUMANE SOCIETY. The City may enter into a contract with the Humane Society, or similar incorporated society organized for the express purpose of prevention of cruelty to animals, for the use of its facilities for the restraining and impounding of animals. Any such contract shall provide for the maintenance of suitable impounding quarters for the humane care of animals impounded therein, and for the destruction or disposition of animals.

55.20 HOLD HARMLESS. Absent a showing of reckless conduct, no person granted authority to enforce the provisions of this chapter shall be liable for damage to or destruction of any animal occurring during the course of enforcement of this chapter.

55.21 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Definitions. As used in this section, the following terms are defined:

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

B. "Business" means any enterprise relating to any of the following:

(1) The sale or offer for sale of goods or services.

- (2) A recruitment for employment or membership in an organization.
 - (3) A solicitation to make an investment.
 - (4) An amusement or entertainment activity.
 - C. “Fair” means any of the following:
 - (1) 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.
 - (2) An exhibition of agricultural or manufactured products.
 - (3) An event for operation of amusement rides or devices or concession booths.
 - D. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.
 - E. “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.
2. 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 event.
 - 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.
3. 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.

(Ord. 561 - Sep. 04 Supp.)

CHAPTER 56
DOG AND CAT LICENSES

(Repealed by Ord. 460 – May-99 Supp.)

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Keeping of Dangerous Animals Prohibited

57.03 Keeping of Vicious Animals Prohibited

57.04 Seizure, Impoundment and Disposition

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

1. “Dangerous animal” means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (b) any animal declared to be dangerous by the County Board of Health or Council or its designee; and (c) the following animals, which are deemed to be dangerous animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, cheetahs, ocelots, servals, lynx, hyenas and bobcats;
- B. Wolves, coyotes, jackals and foxes;
- C. Badgers, wolverines, weasels, skunk and mink;
- D. Raccoons;
- E. Bears and pandas;
- F. Rhinoceroses and any species of elephants;
- G. Monkeys, marmosets, tamarins, lemurs, galagos, bushbabies, great apes, gibbons, lesser apes, indris, sifakas, tarsiers and chimpanzees;
- H. Bats;
- I. Alligators, caimans, gharials, and crocodiles;
- J. Scorpions;
- K. Any members of the order squamata, which is any of the following:
 - (1) Members of the family varanidae, which are limited to water monitors and crocodile monitors;
 - (2) Members of the family atractaspidae, including but not limited to mole vipers and burrowing asps;

(3) Members of the family helodermatidae, including but not limited to beaded lizards and gila monsters;

(4) Members of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae that are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes; and

(5) Members of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons;

L. Members of the species *sus scrofa* Linnaeus, including but not limited to swine commonly known as Russian Boar or European boar of either sex.

M. Any dog or other animal which has a known propensity, tendency or disposition to attack human beings or domestic animals without provocation, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury to or to otherwise endanger their safety; or any dog or other animal that manifests a disposition to snap or bite.

2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

(Ord. 778 – Mar. 14 Supp.)

57.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City except in the following circumstances:

(Ord. 778 – Mar. 14 Supp.)

1. The keeping of dangerous animals for exhibition to the public by a licensed traveling circus, carnival, exhibit or show.

2. The keeping of dangerous animals in a licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

57.03 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs, must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the local law enforcement officers that a guard dog is on duty at said premises.

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or Police Officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. If the facts indicate that a person is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or Police Officer shall order the person to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to the remove dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any

person, in which case the Mayor or Police Officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or Police Officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor or Police Officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. Within seven (7) days a date of hearing for such appeal will be set. After such hearing, the Council may affirm or reverse the order of the Mayor or Police Officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or Police Officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall promptly be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or Police Officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor or Police Officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or Police Officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

(Ch. 57 - Ord. 620 - April 09 Supp.)

[The next page is 295]

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 “Hiawatha 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 any officer of the fire department when at the scene of a fire, in the absence of a peace officer or as directed by a peace officer, 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 & 321.274)

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.

(Ord. No. 457 – May-99 Supp.)

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor or 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 Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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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 Police Chief or Mayor 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 Police Chief shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Police Chief 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 Police Chief 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.

(Code of Iowa, Sec. 321.256)

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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 Funeral Processions

62.07 Tampering with Vehicle
62.08 Open Containers in Motor Vehicles
62.09 Obstructing View at Intersections
62.10 Reckless Driving
62.11 Careless Driving
62.12 Administrative Fee for Towing

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 321.20B — Proof of security against liability.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.34 – Plates or validation sticker furnished; retained by owner; special plates.
5. Section 321.37 – Display of plates.
6. Section 321.38 – Plates, method of attaching, imitations prohibited.
7. Section 321.41 – Change of address or name or fuel type.
8. Section 321.54 – Registration required of certain nonresident carriers.
9. Section 321.55 – Registration required for certain vehicles owned or operated by nonresidents.
10. Section 321.79 – Intent to injure.
11. Section 321.91 — Penalty for abandonment.
12. Section 321.97 – Fraudulent applications.
13. Section 321.98 – Operation without registration.
14. Section 321.99 – Fraudulent use of registration.
15. Section 321.100 – False evidence of registration.
16. Section 321.174 – Operators licensed.

17. Section 321.174A – Operation of motor vehicles with expired license.
18. Section 321.180 – Instruction permits.
19. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
20. Section 321.189 – Drivers license; content; motorcycle rider education fund.
21. Section 321.193 – Restricted licenses.
22. Section 321.194 – Special minor's license.
23. Section 321.216 – Unlawful use of license.
24. Section 321.216B – Use of motor vehicle license or nonoperator's identification card by underage person to obtain alcohol.
25. Section 321.216C — Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
26. Section 321.218 – Driving without valid license.
27. Section 321.219 – Permitting unauthorized minor to drive.
28. Section 321.220 – Permitting unauthorized person to drive.
29. Section 321.221 – Employing unlicensed chauffeur.
30. Section 321.222 – Renting motor vehicle to another.
31. Section 321.223 – License inspected.
32. Section 321.224 – Record kept.
33. Section 321.232 – Radar jamming devices; penalty.
34. Section 321.234A – All-terrain vehicles.
35. Section 321.235A – Electric personal assistive mobility devices.
36. Section 321.240 – Altering center of gravity of vehicle.
37. Section 321.247 – Golf cart operation on City streets.
38. Section 321.259 – Unauthorized signs, signals or markings.
39. Section 321.262 – Damage to vehicle.
40. Section 321.263 – Information and aid.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.

43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.278 – Drag racing prohibited.
45. Section 321.281 – Prohibiting certain actions against bicyclists by the operator of a motor vehicle.
46. Section 321.288 – Control of vehicle; reduced speed.
47. Section 321.295 – Limitation on bridge or elevated structures.
48. Section 321.297 – Driving on right-hand side of roadways; exceptions.
49. Section 321.298 – Meeting and turning to right.
50. Section 321.299 – Overtaking a vehicle.
51. Section 321.302 – Overtaking on the right.
52. Section 321.303 – Limitations on overtaking on the left.
53. Section 321.304 – Prohibited passing.
54. Section 321.306 – Improper use of lanes.
55. Section 321.307 – Following too closely.
56. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
57. Section 321.309 – Towing; convoys; drawbars.
58. Section 321.310 – Towing four-wheel trailers.
59. Section 321.312 – Turning on curve or crest of grade.
60. Section 321.313 – Starting parked vehicle.
61. Section 321.314 – When signal required.
62. Section 321.315 – Signal continuous.
63. Section 321.316 – Stopping.
64. Section 321.317 – Signals by hand and arm or signal device.
65. Section 321.319 – Entering intersections from different highways.
66. Section 321.320 – Left turns; yielding.
67. Section 321.321 – Entering through highways.
68. Section 321.322 – Vehicles entering stop or yield intersection.
69. Section 321.323 – Moving vehicle backward on highway.
70. Section 321.323A – Approaching certain stationary vehicles.
71. Section 321.324 – Operation on approach of emergency vehicles.

- 72. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 73. Section 321.330 – Use of crosswalks.
- 74. Section 321.332 – White canes restricted to blind persons.
- 75. Section 321.333 – Duty of drivers.
- 76. Section 321.340 – Driving through safety zone.
- 77. Section 321.341 – Obedience to signal of train.
- 78. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 79. Section 321.343 – Certain vehicles must stop.
- 80. Section 321.344 – Heavy equipment at crossing.
- 81. Section 321.344B — Immediate safety threat – penalty.
- 82. Section 321.354 – Stopping on traveled way.
- 83. Section 321.359 – Moving other vehicle.
- 84. Section 321.362 – Unattended motor vehicle.
- 85. Section 321.363 – Obstruction to driver's view.
- 86. Section 321.364 – Preventing contamination of food by hazardous material.
- 87. Section 321.365 – Coasting prohibited.
- 88. Section 321.367 – Following fire apparatus.
- 89. Section 321.368 – Crossing fire hose.
- 90. Section 321.369 – Putting debris on highway.
- 91. Section 321.370 – Removing injurious material.
- 92. Section 321.371 – Clearing up wrecks.
- 93. Section 321.372 – School buses.
- 94. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 95. Section 321.381A — Operation of low-speed vehicles.
- 96. Section 321.382 – Upgrade pulls; minimum speed.
- 97. Section 321.383 – Exceptions; slow vehicles identified.
- 98. Section 321.384 – When lighted lamps required.
- 99. Section 321.385 – Head lamps on motor vehicles.

100. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
101. Section 321.387 – Rear lamps.
102. Section 321.388 – Illuminating plates.
103. Section 321.389 – Reflector requirement.
104. Section 321.390 – Reflector requirements.
105. Section 321.392 – Clearance and identification lights.
106. Section 321.393 – Color and mounting.
107. Section 321.394 – Lamp or flag on projecting load.
108. Section 321.395 – Lamps on parked vehicles.
109. Section 321.398 – Lamps on other vehicles and equipment.
110. Section 321.402 – Spot lamps.
111. Section 321.403 – Auxiliary driving lamps.
112. Section 321.404 – Signal lamps and signal devices.
113. Section 321.404A – Light-restricting devices prohibited.
114. Section 321.405 – Self-illumination.
115. Section 321.408 – Back-up lamps.
116. Section 321.409 – Mandatory lighting equipment.
117. Section 321.415 – Required usage of lighting devices.
118. Section 321.417 – Single-beam road-lighting equipment.
119. Section 321.418 – Alternate road-lighting equipment.
120. Section 321.419 – Number of driving lamps required or permitted.
121. Section 321.420 – Number of lamps lighted.
122. Section 321.421 – Special restrictions on lamps.
123. Section 321.422 – Red light in front.
124. Section 321.423 – Flashing lights.
125. Section 321.430 – Brake, hitch and control requirements.
126. Section 321.431 – Performance ability.
127. Section 321.432 – Horns and warning devices.
128. Section 321.433 – Sirens, whistles and bells prohibited.
129. Section 321.434 – Bicycle sirens or whistles.
130. Section 321.436 – Mufflers, prevention of noise.

- 131. Section 321.437 – Mirrors.
- 132. Section 321.438 – Windshields and windows.
- 133. Section 321.439 – Windshield wipers.
- 134. Section 321.440 – Restrictions as to tire equipment.
- 135. Section 321.441 – Metal tires prohibited.
- 136. Section 321.442 – Projections on wheels.
- 137. Section 321.444 – Safety glass.
- 138. Section 321.445 – Safety belts and safety harnesses; use required.
- 139. Section 321.446 – Child restraint devices.
- 140. Section 321.449 – Motor carrier safety regulations.
- 141. Section 321.450 – Hazardous materials transportation.
- 142. Section 321.454 – Width of vehicles.
- 143. Section 321.455 – Projecting loads on passenger vehicles.
- 144. Section 321.456 – Height of vehicles; permits.
- 145. Section 321.457 – Maximum length.
- 146. Section 321.458 – Loading beyond front.
- 147. Section 321.460 – Spilling loads on highways.
- 148. Section 321.461 – Trailers and towed vehicles.
- 149. Section 321.462 – Drawbars and safety chains.
- 150. Section 321.463 – Maximum gross weight.
- 151. Section 321.465 – Weighing vehicles and removal of excess.
- 152. Section 321.466 – Increased loading capacity - reregistration.
(Ord. 697 – Aug. 11 Supp.)

62.02 PLAY STREETS DESIGNATED. The Council 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 shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. 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 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

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

62.08 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

As used in this section “passenger area” means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in

operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

(Ord. 484 – Oct. 99 Supp.)

62.09 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.

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

(Code of Iowa, Sec. 321.277)

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

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

(Ord. 434 - Dec. 97 Supp.)

62.12 ADMINISTRATIVE FEE FOR TOWING. In addition to any penalty provided by law, the City may impose an administrative fee for each instance of towing pursuant to this section. The fee imposed shall be in an amount set by the City Council and must be paid prior to the vehicle being released from the City's custody.

(Ord. 609 – Apr. 08 Supp.)

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 Minimum Speed

63.03 Emergency Vehicles
63.04 Special Speed Restrictions

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)

1. Business District. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this chapter, is unlawful.

(Code of Iowa, Sec. 321.285 [1])

2. Residence or School District. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this chapter, is unlawful.

(Code of Iowa, Sec. 321.285 [2])

3. Suburban District. A speed in excess of forty-five (45) miles per hour in any suburban district, unless specifically designated otherwise in this chapter, is unlawful.

(Code of Iowa, Sec. 321.285 [4])

4. Commercial/Industrial District. A speed in excess of thirty (30) miles per hour contained within any commercial/industrial district, unless specifically designated otherwise in this chapter, is unlawful.

5. Cemeteries and Parking Lots. A speed in excess of fifteen (15) miles per hour in any public cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

6. Special Speed Zones

A. 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) Stonegate Court from Robins Road to the end of the court;

(2) Twelfth Avenue Court from Boyson Road to Court.

B. 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) Robins Road from Center Point Road to north entrance to Bali Hai;

(2) East Boyson Road from Robins Road to east City limits;

(3) Boyson Road from North Center Point Road to Robins Road.

C. 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) Blairs Ferry Road from east City limits to west City limits;

(2) Center Point Road from south City limits to Emmons Street;

(3) North Center Point Road from Emmons Street to the north City limits;

(4) Boyson Road from North Center Point Road to Miller Road;

(5) Tower Terrace Road from North Center Point Road to west line of Section 29-84-7;

(6) Miller Road from Blairs Ferry Road to the north City limits.

D. 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.

—NONE—

E. 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) Robins Road from north entrance into Bali Hai to the north City limits;

(2) Tower Terrace Road from west City limits to beginning of 35 MPH zone;

(3) Tower Terrace Road from north Center Point Road to Robins Road.

F. 60 MPH Speed Zones. A speed in excess of sixty (60) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) I-380 northbound and southbound between 26 mile marker and the south City limits.

G. 70 MPH Speed Zones. A speed in excess of seventy (70) miles per hour is unlawful on any of the following designated streets or parts thereof.

(1) Northbound I-380 from 26 mile marker to north City limits;

(2) Southbound I-380 from north City limits to 26 mile marker;

63.02 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

63.03 EMERGENCY VEHICLES. The speed limitations set forth in this chapter do not apply to authorized emergency vehicles when responding to emergency calls and the drivers thereof sound audible signal by bell, siren or whistle. This provision does not relieve such driver from the duty to drive with due regard for the safety of others.

(Code of Iowa, Sec. 321.231)

63.04 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth 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.

(Code of Iowa, Sec. 321.290)

(Ch. 63 - Ord. 785 – Aug. 14 Supp.)

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CHAPTER 64

TURNING REGULATIONS

64.01 Authority to Mark

64.02 U-turns

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

(Code of Iowa, Sec. 321.311)

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

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

— NONE —

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Intersections
65.02 Yield Intersections
65.03 School Stops

65.04 Stop Before Crossing Sidewalk
65.05 Stop When Traffic Is Obstructed
65.06 Yield to Pedestrians in Crosswalks

65.01 STOP INTERSECTIONS. Every driver of a vehicle shall stop at those intersections in the City which are designated by the Council to be stop intersections.

1. Through Streets. The following are designated as through streets:
 - A. Center Point Road from Blairs Ferry Road to Robins Road and Emmons Street.
 - B. N. Center Point Road from Robins Road and Emmons Street to North City Limits.
 - C. Robins Road from Center Point Road to North City Limits.
 - D. Blairs Ferry Road from East City Limits to West City Limits.
 - E. Emmons Street from Center Point Road to West City Limits.
 - F. Boyson Road from East City Limits to West City Limits.
 - G. Twelfth Avenue from Blairs Ferry Road to Emmons Street.
 - H. North Twelfth Avenue from Emmons Street to Boyson Road.
 - I. Miller Road from Blairs Ferry Road to North City Limits.
 - J. Tenth Avenue from Blairs Ferry Road to Emmons Street.
 - K. N. Tenth Avenue from Emmons Street to Milstead Drive.
 - L. Stamy Road from N. Center Point Road to the southern boundary of Tower Terrace Road.
 - M. Tower Terrace Road from East City Limits to West City Limits.
 - N. Edgewood Road North of Tower Terrace Road from South City Limits to the North City Limits.
(Ord. 848 – Jun. 16 Supp.)
 - O. Hunt Road within the City Limits. *(Ord. 806 – Jan. 15 Supp.)*

P. Todd Hills Road from East City Limits to West City Limits.
(Ord. 848 – Jun.16 Supp.)

2. Stop Intersection. Every driver of a vehicle shall stop at all intersecting streets that meet a through street unless otherwise designated:

A. 9th Avenue. Vehicles traveling on 9th Avenue shall stop at West Willman Street.

B. Eisenhower Road. Vehicles traveling on Eisenhower Road shall stop at 9th Avenue.

C. N. 15th Avenue. Vehicles traveling on Lyndhurst Drive shall stop at North 15th Avenue.

D. N. 18th Avenue. Vehicles traveling on Progress Drive shall stop at North 18th Avenue.

E. N. 18th Avenue. Vehicles traveling on Emmons Street shall stop at North 18th Avenue.

F. N. 18th Avenue. Vehicles traveling on Litchfield Drive shall stop at North 18th Avenue.

G. W. Willman Street. Vehicles traveling on First Avenue shall stop at West Willman Street.

H. W. Willman Street. Vehicles traveling on Second Avenue shall stop at West Willman Street.

I. Sixth Avenue. Vehicles traveling on West Willman Street shall stop at Sixth Avenue.

J. Wolf Creek Trail. Vehicles traveling on Deer Crest shall stop at Wolf Creek Trail.

K. Longfellow Drive. Vehicles traveling south on Longfellow Drive shall stop at Dina Court.

L. Hawkeye Drive. Vehicles traveling on Kacena Road shall stop at Hawkeye Drive.

M. Northwood Drive. Vehicles traveling on Nixon Drive shall stop at Northwood Drive.

N. North Center Point Road. Vehicles traveling on Tower Terrace Road shall stop at North Center Point Road.

O. Robins Road. Vehicles traveling on Tower Terrace Road shall stop at Robins Road.

P. Boyson Road. Vehicles traveling on North 12th Avenue shall stop at Boyson Road.

- Q. Woodland Court. Vehicles traveling on Woodland Court shall stop at Litchfield Drive.
- R. Litchfield Drive. Vehicles traveling on Litchfield Drive shall stop at North 15th Avenue.
- S. Litchfield Drive. Vehicles traveling on North 16th Avenue shall stop at Litchfield Drive.
- T. Litchfield Drive. Vehicles traveling on North 17th Avenue shall stop at Litchfield Drive.
- U. Lyndhurst Drive. Vehicles traveling on North 16th Avenue shall stop at Lyndhurst Drive.
- V. Lyndhurst Drive. Vehicles traveling on North 17th Avenue shall stop at Lyndhurst Drive.
- W. Emmons Street. Vehicles traveling on Emmons Street shall stop at Nemiah Aquilla Miller Road.
- X. Metzger Drive. Vehicles traveling on Metzger Drive shall stop at Hawkeye Drive.
- Y. Commerce Drive. Vehicles traveling on Commerce Drive shall stop at Metzger Drive.
- Z. Willowood Drive. Vehicles traveling east on Willowood Drive shall stop at S. Blairsferry Crossing.
- AA. Ryan Avenue. Vehicles traveling south on Ryan Avenue shall stop at Pirie Drive.
- BB. Brandon Avenue. Vehicles traveling south on Brandon Avenue shall stop at Pirie Drive. *(Ord. 835 – Oct. 15 Supp.)*
- CC. Sherman Road. Vehicles traveling on Sherman Road shall stop at the intersection of Kacena Road. *(Ord. 846 – Jun. 16 Supp.)*
- DD. Forrest Meadow Lane. Vehicles traveling on Forrest Meadow Lane shall stop at Fitzroy Road. *(Ord. 848 – Jun. 16 Supp.)*
- EE. North bound Ridgewood Drive shall stop at Blairs Ferry Crossing.
- FF. South bound Ridgewood Drive shall stop at Heritage Green Drive.
- GG. Worthington Court shall stop at Heritage Green Drive.
(Subsections EE – GG – Ord. 870 – May 17 Supp.)
- HH. A Avenue. Vehicles traveling on A Avenue shall stop at E Clark Street and E Willman Street.
- II. Oak Street. Vehicles traveling on Oak Street shall stop at A Avenue.
(Subsections HH – II – Ord. 883 – Dec. 17 Supp.)

3. 4-way Stops. The following are designated as 4-way stops:
 - A. Boyson Road and Robins Road.
 - B. 10th Avenue and Emmons Street.
 - C. North 12th Avenue and Emmons Street.
 - D. North 12th Avenue and Lyndhurst Drive.
 - E. 18th Avenue and Lyndhurst Drive.
(Ord. 518 – June 02 Supp.)
 - F. S. Blairs Ferry Crossing and Heritage Green Drive.
(Ord. 870 – May 17 Supp.)

65.02 YIELD INTERSECTIONS. Every driver of a vehicle shall yield at those intersections in the City which are designated by the Council to be yield intersections.

1. Marion Street. Vehicles traveling east on Marion Street shall yield at Second Avenue.
2. Third Avenue. Vehicles traveling on Third Avenue shall yield at West Clark Street.
3. Willman Street. Vehicles traveling on Third Avenue shall yield at Willman Street.
4. “B” Avenue. Vehicles traveling on East Willman Street shall yield at “B” Avenue.
5. Tucker Street. Vehicles traveling on Tucker Street shall yield at “C” Avenue.
6. Martha’s Way. Vehicles traveling on Martha’s Way shall yield at Progress Drive.
7. North 15th Avenue. Vehicles traveling on North 15th Avenue shall yield at Progress Drive.
8. North Compton Drive. Vehicles traveling on North Compton Drive shall yield at Progress Drive.
9. North 20th Avenue. Vehicles traveling on North 20th Avenue shall yield at Progress Drive.
10. North 14th Avenue. Vehicles traveling on North 14th Avenue shall yield at Lyndhurst Drive.
11. Wolf Creek Trail. Vehicles traveling on Wolf Ridge Road shall yield at Wolf Creek Trail.
12. Wolf Ridge Road. Vehicles traveling on Creekside Drive shall yield at Wolf Ridge Road.

13. Wolf Ridge Road. Vehicles traveling on Grey Wolf shall yield at Wolf Ridge Road.
(*Ord. 576 – Sep. 05 Supp.*)
(*Subsections 4-13 – Ord. 883 – Dec. 17 Supp.*)

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

(*Code of Iowa, Sec. 321.249*)

65.04 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*)

65.05 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.

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

(*Code of Iowa, Sec. 321.327*)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

66.04 Load Limits on Bridges
66.05 Truck Route
66.06 Weighing Vehicles

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 operating on streets so designated by such signs. The vehicle weight shall be determined by the registered weight with the State of Iowa. If a vehicle is found to be in violation of this section, the Police Department shall assess a fine in the amount of one hundred dollars (\$100.00) against the operator of the vehicle.

(Ord. 784 – Aug. 14 Supp.)

(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 City ordinance over those streets named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. The Council may, when deemed necessary, by resolution, impose limitations on the weight of trucks or other commercial vehicles on designated streets or highways under the Council's jurisdiction, and such limitations shall be designated by appropriate signs placed on such streets or highways. 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.

66.04 LOAD LIMITS ON BRIDGES. When the City Engineer, Police Chief or Mayor determines 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 Mayor or Police Chief 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. 321.473*)

66.05 TRUCK ROUTE. Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing ten (10) tons or more, when loaded or empty, and every semi-truck having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel only upon or over the designated freeways, expressways, and U.S. and State highways within the City and no other streets in the City except as hereinafter provided.

2. Deliveries Off Truck Route. Every motor vehicle weighing ten (10) tons or more, when loaded or empty, and every semi-truck having a fixed terminal or making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route except as hereinafter provided. Nothing contained herein, however, shall prohibit the parking of a motor vehicle on any other street for the purpose of making emergency repairs. The maximum time allowed for parking for the purpose of making emergency repairs shall not exceed 24 hours.

(*Code of Iowa, Sec. 321.473*)

3. Employer's Responsibility. No person shall drive or move and no owner or any other person employing or otherwise directing the driver of any vehicle shall cause or permit the operation of a vehicle upon a street in any manner contrary to this section.

(*Code of Iowa, Sec. 321.473*)

66.06 WEIGHING VEHICLES. Any police officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing either by means of portable or stationary scales and/or may require that such vehicle may be driven to the nearest public scales or to a scale designated by the Police Department. A driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, is guilty of a violation of this section.

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use Sidewalks

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)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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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])

— NONE —

o o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.09 Truck, Unattached Trailer, Camper, Motor Home, and Boat Parking Limited
69.02 Park Adjacent to Curb - One-way Street	69.10 Limited Parking
69.03 Angle Parking	69.11 Snow Removal
69.04 Angle Parking - Manner	69.12 Snow Routes
69.05 Parking for Certain Purposes Illegal	69.13 Fire Lanes
69.06 Parking Prohibited	69.14 Residential Permit Parking
69.07 Persons With Disabilities Parking	
69.08 No Parking Zones	

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 parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. Emmons Street on the north side from Center Point Road to I.C.G. Railroad;
2. B Avenue on the east side from Tucker Street to E. Willman Street;
3. E. Clark Street, Lot 28, Hartles First Addition, only, north and east sides.

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 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, 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. Parking in any part of the parking lot of any fire station shall be limited to vehicles of Fire Department personnel on official Fire Department business, vehicles of visitors who are conducting official Fire Department business and vehicles of persons attending Fire Department sponsored events.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. City-owned Lots. In any City-owned lot when parking space is clearly marked as "No Parking" or "Reserved (and who reserved for)." Such spaces shall be considered as "No Parking" spaces for any vehicle not owned by the City. The following shall be specifically reserved for City-owned vehicles:

- A. All concrete parking area at 999 Boyson Road (Pumphouse #5);

- B. Northwest corner of City Park (Pumphouse #4).
- C. Limited parking to City Hall business or events during normal business hours for both the east and west parking lots.
(*Ord. 643 – Feb. 10 Supp.*)

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

- 1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

- A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one persons with disabilities parking space.

- (*Code of Iowa, Sec. 321L.5[3a]*)

- B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

- (*Code of Iowa, Sec. 321L.5[3b]*)

- C. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

- (*Code of Iowa, Sec. 321L.5[3c]*)

- D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PERSONS WITH DISABILITIES PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	†
1001 and over	‡
† Two percent (2%) of total	
‡ Twenty (20) spaces plus one for each 100 over 1000	

(Code of Iowa, Sec. 321L.5[3d])

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors' parking area in accordance with the table contained in subsection (1)(D) of this section.

(IAC, 661-18.7[321L])

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as persons with disabilities parking spaces.

(Code of Iowa, Sec. 321L.5[4a])

4. Other Spaces. Any other person may set aside persons with disabilities parking spaces on the person's property provided each parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any

on-street persons with disabilities parking space without first obtaining Council approval.

(Code of Iowa, Sec. 321L.5[3e])

5. 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 motor vehicle not displaying a persons with disabilities parking permit;

B. Use by an operator of a motor 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 motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

(Ord. 427 - Dec. 97 Supp.)

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. Robins Road, on both sides, from Center Point Road to north edge of Bali Hai property.

2. Boyson Road, on both sides, from Center Point Road to east City limits.

3. Nixon Drive, the west side, from Northwood Drive to Pirie Drive.

(Ord. 618 – April 09 Supp.)

4. Northwood Drive, on the south side, from Robins Road to City limits.

5. Chaffee Drive, on both sides, from Robins Road to City limits.

6. “B” Avenue, on the west side, from Tucker Street to East Clark Street.

7. Tucker Street, on the south side, from “B” Avenue to “C” Avenue.

8. “C” Avenue, on both sides, from Blairs Ferry Road to Tucker Street.

9. Center Point Road, on both sides, from Blairs Ferry Road to north City limits.
10. Blairs Ferry Road, on the north side, from east City limits to west City limits.
11. Emmons Street, on the south side, from Center Point Road to Eighteenth Avenue.
12. Emmons Street, on the north side, from Sixth Avenue to Tenth Avenue.
13. Emmons Street, on the north side, from Fifteenth Avenue to Sixteenth Avenue.
14. North Eighth Avenue, on both sides, from Independence Street to Park Court.
15. Ninth Avenue, on the west side, from Emmons Street to West Willman Street.
16. Tenth Avenue, on the east side, from Blairs Ferry Road to Heefner Street.
17. Independence Street, on both sides, from Park Street to City Park entrance.
18. Industrial Avenue, on both sides, from Boyson Road to dead end.
19. Boyson Court, on the west side, from Boyson Road to south end of Boyson Court.
20. Lyndhurst Drive, on the north side, from North Twelfth Avenue to North Fifteenth Avenue.
21. Litchfield Drive, on the south side, from North Twelfth Avenue to North Fifteenth Avenue.
22. North Fifteenth Avenue, on the east side, from Lyndhurst Drive to Litchfield Drive.
23. North Fifteenth Avenue, on both sides, from Boyson Road to Progress Drive.
24. North Twelfth Avenue, on the east side, from Lyndhurst Drive to Boyson Road.
25. North Twelfth Avenue, on the west side, from 200 feet south of Langston Drive to Boyson Road.
26. Eighteenth Avenue, on the east side, from Blairs Ferry Road to Boyson Road.

27. Center Point Road, on both sides, from Boyson Road, thence southward for 500 feet.
28. Boyson Road, on both sides, from North Center Point Road west to Miller Road.
29. Tower Terrace Road within the City limits.
30. North Eighteenth Avenue, on the east side, from Boyson Road to the north.
31. Nemiah Aquilla Miller Road from south City limits to north City limits.
32. North Twenty Avenue, on both sides, from Boyson Road north to Progress Drive.
33. Progress Drive, on both sides, from Nemiah Aquilla Miller Road to the east.
34. Twelfth Avenue, on both sides, 120 feet away south of Bowler Street to Blairs Ferry Road intersection.
(Ord. 608 – Apr. 08 Supp.)
35. Eleventh Avenue, on both sides, from Bowler Street to Raney Street.
36. Litchfield Drive and North Eighteenth Avenue intersection back 50 feet on all four sides of the intersection.
37. Emmons Street and Eighteenth Avenue intersection back 50 feet on all four sides of the intersection.
(Ord. 618 – Apr. 08 Supp.)
38. North side of Oak Street from Robins Road east to the end of the block from December 1st to April 1st.
39. East side of 4th Avenue between Emmons Street and West Clark Street.
(Ord. 632 – Apr. 08 Supp.)
40. North side of Clark Street from the intersection of 4th Avenue 270' to the east and only allow for City vehicle parking.
41. East side of 9th Avenue from the north side of the intersection with Eisenhower extending south to 50' beyond the intersection.
(Ord. 642 – Feb. 10 Supp.)
42. North side of Kacena Road between North Center Point Road and Stamy Road in its entirety.
43. South side of Kacena Road from North Center Point Road to 230 feet east.
44. South side of Kacena Road from Stamy Road to 230 feet west.
(Ord. 718 – Jan. 12 Supp.)

45. Blairs Ferry Crossing, on both sides, from Miller Road to the east side of Ridgewood Drive. *(Ord. 729 – Aug. 12 Supp.)*
46. Heritage Boulevard, on both sides, from Miller Road to the east side of Ridgewood Drive. *(Ord. 736 – Feb. 13 Supp.)*
47. Heritage Green Boulevard, on both sides, from Miller Road to the east side of Ridgewood Drive. *(Ord. 736 – Feb. 13 Supp.)*
48. Stamy Road, west side of the street from Tower Terrace Road to Kacena Road. *(Ord. 738 – Feb. 13 Supp.)*
49. Hawkeye Drive, on both sides of the street, from Tower Terrace Road to Boyson Road. *(Ord. 738 – Feb. 13 Supp.)*
50. Ketelsen Drive, on both sides of the street, from N Center Point Road to the end of the street.
51. Metzger Drive, on both sides of the street, from Hawkeye Drive to Stamy Road.
52. Commerce Boulevard, on both sides of the street, from Metzger Drive to Tower Terrace Road.
53. Stamy Road, on the east side of the street, from Kacena Road to Tower Terrace Road.
54. Stamy Road, on both sides of the street, from Kacena Road to North Center Point Road.
55. Kacena Road, on both sides of the street, from Stamy Road to Hawkeye Drive.
56. Kacena Road, on the south side of the street, from Stamy Road to North Center Point Road.
57. Sherman Road, on both sides of the street, from Kacena Road to North Center Point Road.
58. Longfellow Drive, on both sides of the street, from Stamy Road to Dina Court.
59. Dina Court, on both sides of the street, from North Center Point Road to Industrial Drive.
60. North Compton, on both sides of the street, from Boyson Road to Progress Drive.
61. Martha's Way, on both sides of the street, from Boyson Road to Progress Drive.
62. North 18th Avenue, on the west side of the street, from Boyson Road to Progress Drive.

(Ord. 745 – Sep. 13 Supp.)

63. Parsons Drive, on the west side of the street, from North Center Point Road to the end of the street.

(Ord. 751 – Sep. 13 Supp.)

64. Heefner Street, on the north side of the street, from 9th Avenue to 10th Avenue.

65. Savannah Drive, on the east side of the street, from Hunt Road to 400 feet south.

66. Savannah Court, on the south side of the street, from Savannah Drive to 600 feet west.

(Subsections 64-66 – Ord. 843 – Oct. 15 Supp.)

67. Daimondback Road, on the east side of the street from Reed Road to Todd Hills Road.

68. Forrest Meadow Lane, on the east side of the street from Fitzroy Road to Dell Ridge Lane.

(Subsections 67-68 – Ord. 866 – Jun. 16 Supp.)

69.09 TRUCK, UNATTACHED TRAILER, CAMPER, MOTOR HOME, AND BOAT PARKING LIMITED. No one shall park a motor truck, semi-trailer, motor vehicle with trailer attached, unattached trailer, camper, motor home, or boat in violation of the following regulations. The provisions of this section shall not apply to pick-up, light delivery or panel delivery trucks.

(Ord. 739 – Feb. 13 Supp.)

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

1. All Night. No such vehicle shall be left unattended or parked upon any street or alley within or abutting residential zones for a period of time longer than one (1) hour, between the hours of six o'clock (6:00) p.m. and four o'clock (4:00) a.m. of any day.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of six o'clock (6:00) p.m. and four o'clock (4:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

(Ord. 644 – Feb. 10 Supp.)

69.10 LIMITED PARKING. It is unlawful to park any vehicle for a continuous period upon the following designated streets and/or parking lot spaces at the limited time so designated:

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

1. Limited Parking to One Hour. East Clark Street, on the south side, from Center Point Road to "A" Avenue.
2. Limited Parking to Four Hours. Eisenhower Road, on the south side, from 9th Avenue to 10th Avenue.
3. Limited Parking to Four Hours, April through October, Wednesdays 3:00 – 7:00 P.M. and Sundays 11:00 A.M. – 3:00 P.M. Guthridge Park 10th Avenue Parking Lot, all spaces in first two rows adjacent to Tenth Avenue between extended Lyndhurst Drive and extended Milstead Drive within the parking lot.

(Ord. 591 – Oct. 06 Supp.)

69.11 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, or City-owned off street parking area during snow removal operations for 48 hours; or the snow has been removed or plowed from said street or parking area and the snow has ceased to fall. The parking ban is in effect when three inches (3") or more inches of snow or ice has fallen or is predicted by the National Weather Service. Failure to remove vehicles from the public street or City-owned off street parking will result in a no parking fine of \$25.00 with additional cost resulting from a towing fee.

(Ord. 652 – Feb. 10 Supp.)

(Code of Iowa, 321.236[1])

69.12 SNOW ROUTES.

1. Designation. The following streets and avenues are hereby designated as snow routes:

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

A. North-South Routes.

- (1) Center Point Road from Blairs Ferry Road to end of City limits;
- (2) Robins Road from Center Point Road north to end of City limits;
- (3) Sixth Avenue from Blairs Ferry Road north to Emmons Street;
- (4) Tenth Avenue from Blairs Ferry Road north to end of North Tenth Avenue (north of Milstead Dr.);

- (5) Twelfth Avenue from Blairs Ferry Road north to Boyson Road;
- (6) North Fifteenth Avenue from Emmons Street to end of North Fifteenth Avenue (north of Progress Dr.);
- (7) Eighteenth Avenue from Blairs Ferry Road to end of North Eighteenth Avenue (north of Progress Dr.);
- (8) Nemiah Aquilla Miller Road from Blairs Ferry Road north to end of City limits.

B. East-West Routes.

- (1) West Clark Street from Fourth Avenue east to Center Point Road;
- (2) Emmons Street from Miller Road east to Center Point Road;
- (3) Northwood Drive from west end to Nixon Drive;
- (4) Boyson Road from Nemiah Aquilla Miller Road east to end of City limits (east of Dry Run Creek Court);
- (5) Tower Terrace Road from western City limits to Robins Road;
- (6) Litchfield from Twelfth Avenue to Fifteenth Avenue.

(Ord. 652 – Feb. 10 Supp.)

2. Snow Route Signs Required. All streets and avenues designated as snow routes shall be identified by signs as being “Emergency Snow Routes”. Said signs shall be no less than one sign for every two (2) City blocks on both sides of each designated street or avenue.

3. (Repealed by Ord. 719 – Jan. 12 Supp.)

4. Authority to Impound Vehicles. The Hiawatha Police Department is authorized to cause to be removed any vehicles from any street or avenue under the following circumstances:

- A. When any vehicle is parked in violation of a ban on parking as set forth in this section; and
- B. When any vehicle is left parked upon a public street and has caused snow removal to be hindered.

In addition to any penalties imposed for violation of this section, the owner of any vehicle that has been impounded shall be required to pay the cost of towing charges and storage.

5. Declaration of Snow Emergencies. Snow emergencies shall be declared by either the Mayor or City Administrator when either of them believes that weather conditions have created or are likely to create hazardous road conditions or road conditions that impede the free movement of emergency or other vehicular traffic. The parking restrictions set forth in this section shall take effect one (1) hour after the snow emergency has been declared and shall remain in effect until snow removal has been completed or the snow emergency is terminated by announcement of the Mayor or City Administrator. The declaration of a snow emergency and the announcement of its termination shall be provided by means of public service broadcasts or telecasts from stations with a normal operating range covering the City.

(Ord. 501 – Oct.-01 Supp.)

69.13 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, subject to the approval of the Council, 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 Mayor 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.

69.14 RESIDENTIAL PERMIT PARKING.

1. Parking Prohibited. From April 1 to June 30 each year, no person shall stop, stand or park a vehicle on the street without a parking permit in the following locations:
 - A. On either side of Lyndhurst Drive from N. 16th Avenue to N. 15th Avenue.
 - B. On the south side of Lyndhurst Drive from N. 15th Avenue east up to and including 1265 Lyndhurst Drive.
 - C. On the west side of N. 15th Avenue from Litchfield Drive to Emmons Street.
 - D. On the east side of N. 15th Avenue from Lyndhurst Drive to Emmons Street.

E. On either side of N. 14th Avenue from Lyndhurst Drive to Emmons Street.

Vehicles parked on the street in these locations without the displayed parking permit will be ticketed and/or towed at the owner's expense.

2. Permit Issued. Residential parking permits shall be issued to each dwelling unit in the permit area. No residential parking permit shall be issued for a vehicle whose owner or principal operator is not a resident in the parking permit area. The principal permit holder may request additional permits for guest parking. No residential or guest permit shall be transferred or sold to another property.

3. Display. A residential or guest parking permit shall be displayed by hanging from the rear view mirror inside the motor vehicle. Failure to display the permit will result in the vehicle being ticketed and/or towed at the owner's expense.

4. Violations. It shall be a violation of this Chapter for any person to:

A. Park or stand a vehicle in the permit parking area during the restricted times without displaying the proper permit.

B. Represent in any manner or form that a vehicle is entitled to a parking permit authorized by this Chapter when it is not so entitled. The display of a parking permit on a vehicle not entitled to such a parking permit shall constitute such a representation.

C. Duplicate, or attempt to duplicate, by any means, a parking permit authorized by this Chapter. It shall also be a violation of this Chapter to display upon any vehicle such a duplicate parking permit.

All persons found in violation of this Chapter shall be subject to a fine of \$10 for the first offense, a fine of \$25 for the second offense, and a fine of \$25 for every offense thereafter within the same calendar year.

5. Healthcare Exception. The City may issue upon application a special parking permit to a business providing home healthcare services to a resident located within the permit area. Such permit shall only be valid while a home healthcare provider is at a residence within the permit area and is engaged in providing care to a resident of the area. The permit may be revoked by the City for failure to comply with the requirements of this section.

(Ord. 853 – Jun. 16 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of ten dollars (\$10.00) for all violations except snow route parking violations and 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 snow route parking violations is twenty-five dollars (\$25.00), and the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court. *(Ord. 544 – Dec.-03 Supp.)*

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

EDITOR'S NOTE: A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.12.)

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 Forty-eight (48) Hour Period. When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner is found the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
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 flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

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

(Code of Iowa, Sec. 321G.1 [18])

(Ord. 577 – Sep. 05 Supp.)

75.03 GENERAL REGULATIONS. No person shall operate an ATV 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, numbering, 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. General Prohibition. Snowmobiles shall not be operated upon any streets within the City.

(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[4 g])

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

(Code of Iowa, Sec. 321I.10[1 & 2A])

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

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

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[h])

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 dollars (\$1,000.00) 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)

(Ch. 75 - Ord. 559 – Sep. 04 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway
76.08 Carrying Articles

76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty
76.15 Authorized Police Bicycle

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.

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.

76.15 AUTHORIZED POLICE BICYCLE. An on-duty police officer operating a duly authorized Police Department bicycle may, when necessary in the performance of his/her official duties, operate or park such bicycle contrary to the provisions of Chapter 76 of the Code of Ordinances of the City of Hiawatha. The foregoing provision shall not relieve the operator of an authorized bicycle of the duty of operating with due regard for the safety of all persons nor shall such provision protect the operator from the consequences of his/her reckless disregard for the safety of others.

(Ord. 640 – Feb. 10 Supp.)

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CHAPTER 77
BICYCLE LICENSING

(Repealed by Ord. 571 – June 05 Supplement)

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Disposal of Abandoned Vehicles

80.06 Disposal of Totally Inoperable Vehicles

80.07 Proceeds from Sales

80.08 Duties of Demolisher

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

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

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

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

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

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a

hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

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

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

80.05 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])

80.06 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])

80.07 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])

80.08 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])

(Chp. 80 - Ord. 578 - Sep. 05 Supp.)

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals

81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.
(Code of Iowa, Sec. 321.1 [29])
2. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

Operators violating any provision of this section are guilty of a misdemeanor. An employee is not guilty of such violation if the action is necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Purpose
90.02 Board of Trustees
90.03 Wells Prohibited
90.04 Special Exceptions

90.05 Existing Wells
90.06 Violation
90.07 Obedience to Rules and Regulations

90.01 PURPOSE. The purpose of this chapter is to protect the public health, safety and welfare and assure an adequate and safe water supply to the residents of the City of Hiawatha by prohibiting the construction of private wells within the corporate limits that could become possible points of entry of pollutants into the City's water supply or otherwise interfere with the municipal water system maintained and controlled by the Hiawatha Water Department.

90.02 BOARD OF TRUSTEES. The management of the City's Waterworks Utility is the responsibility of the Utility Board of Trustees established and operated as described in Chapter 25 of this Code of Ordinances.

90.03 WELLS PROHIBITED. No person shall construct a well to be used as a potable water supply (drinking water wells) within the corporate City limits. For the purpose of this chapter, "person" means private citizen, corporation or any other entity excluding the City of Hiawatha and Hiawatha Water Department. Wells constructed for purposes other than potable water supply (non-drinking) shall not be connected directly or indirectly to City water supply.

90.04 SPECIAL EXCEPTIONS. Hiawatha Water Department may, upon written application to the Water Superintendent of the Hiawatha Water Department, grant a special exception to the prohibition set forth in Section 36 of the Rules and Regulations of the Hiawatha Water Department upon such conditions and limitations as the Water Department/Board of Trustees, in sole discretion, may prescribe. The Water Department is under no obligation to grant any special exceptions whatsoever, and the authority to grant such special exceptions includes the authority to set appropriate fees for administration, oversight and monitoring as the Water Board of Trustees shall deem appropriate.

90.05 EXISTING WELLS. Any private wells that exist within the corporate City limits at the time of the adoption of the ordinance codified in this chapter are deemed exempt from this chapter.

90.06 VIOLATION. Any person who constructs, operates, maintains or uses a private well within the corporate City limits is in violation of this chapter and upon conviction shall be subject to the penalties set forth in Chapter 4 of the Code of Ordinance. Each day in which any such violation continues shall be deemed a separate offense. The City may seek alternate relief, which may include, but is not limited to, abatement, injunctive relief or collection for correction costs.

90.07 OBEDIENCE TO RULES AND REGULATIONS. It shall be unlawful for any person to fail to obey any rule or regulation promulgated by the Board of Trustees.

(Ch. 90 - Ord. 621 - April 09 Supp.)

CHAPTER 94

WELLHEAD PROTECTION

94.01 Purpose	94.11 Activities Relating to Toxic and Hazardous Substances
94.02 Definitions	94.12 Permit Procedures
94.03 Substances Regulated	94.13 Wellhead Protection Officer Designated
94.04 Wellhead Protection Zone Maps and Listing	94.14 Inspections
94.05 Primary and Secondary Zones	94.15 Transfer of Property
94.06 Determination of Location of Properties within Zones	94.16 Building Permit Issuance
94.07 Regulations Governing Primary Protection Zones	94.17 Underground Tank Restrictions
94.08 Regulations Governing Secondary Protection Zones	94.18 City Action for Injunctive Relief
94.09 Exempt Activities	94.19 Notice of Violation
94.10 Existing Uses	94.20 Appeals Process

94.01 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the City's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents of the City.

94.02 DEFINITIONS. As used in this chapter:

1. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
3. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
4. "Geothermal protection zone" means that Major Geothermal Systems shall not be located within one thousand (1000) feet of a Water Supply Well. And/or Minor Geothermal Systems shall not be located within two hundred (200) feet of a Water Supply Well. Refer to City Ordinance Chapter 153 to define Geothermal Systems.
5. "Hazardous substances" means those materials specified in Section 94.03.
6. "Labeled quantities" means the maximum quantity of chemical as recommended on the label, for specific applications.
7. "May" means desirable characteristics. Characteristics identified by may can be implemented at the discretion of the design team.

8. "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
9. "Petroleum product" means fuels (gasoline, diesel fuels, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, and other similar products.
10. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.
11. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
12. "Primary containment" means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
13. "Public utility" means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
14. "Regulated substance" means substances included under Section 94.03.
15. "Secondary containment" means the level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leak proof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
16. "Shall" means an absolute requirement. Any sentence containing the word shall represents a firm requirement.
17. "Should" means a highly desirable characteristic. Any sentence containing the word should represents a design goal.
18. "Toxic substance" means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.

19. “Water pollution” means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that is injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interferes with the comfortable enjoyment of life of property or the conduct of business.
20. “Water Supply Well” means a well that supplies water that is potable.
21. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.
22. “Well field” means a tract of land that contains a number of wells for supplying water.
23. A “Deep Well” means constructed in such a manner that there is a continuous layer of low permeability rock or soil at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is to be drawn.
24. “Shallow Well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.
25. “Wellhead protection zone” means zones delineated by fixed radius around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.
26. “Will” means an intended characteristic. Characteristics identified by will describes an intent of what is implemented or the intent of the external world.

94.03 SUBSTANCES REGULATED. The materials regulated by this chapter consist of the following:

1. Petroleum products as defined in Section 94.02.
2. Substances listed in 40 CFR part 261, subparts C and D, of the Federal Hazardous Waste List.
3. Substances listed by the Iowa Labor Commissioner pursuant to Section 898.12 of the Code of Iowa (Hazardous Chemicals Risks—Right to Know).

94.04 WELLHEAD PROTECTION ZONE MAPS AND LISTING. Wellhead protection zone maps and listing of locations and any amendments thereto are incorporated by reference and made a part of this chapter. These

maps shall be on file at City Hall. At the time of adoption of the ordinance codified in this chapter, the location of all wells in Hiawatha supplying potable water to the City water system shall be located on the official wellhead protection map with primary and secondary protection zones indicated. Such maps shall be provided to the City Clerk, Building Official, County Health Department, and any other agency requesting the maps. The wellhead protection zone maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:

1. Changes in the technical knowledge concerning the aquifer.
2. Changes in permitted pumping capacity of City well fields.
3. Addition or deletion of wells.
4. Designation of new well fields.

94.05 PRIMARY AND SECONDARY PROTECTION ZONES. The zones of protection indicated on the wellhead protection maps are as follows:

1. Primary Protection Zone (Zone A). An area extending two hundred (200) feet radially from any well supplying potable water to the City water system.
2. Secondary Protection Zone (Zone B). An area extending between two hundred (200) and two thousand five hundred (2,500) feet radially from any well supplying potable water to the City water system.
3. Tertiary Protection Zone (Zone C). An area known as the Geothermal Protection Zone. Major Geothermal Systems extending one thousand (1000) feet radially of a Water Supply Well. Minor Geothermal Systems within two hundred (200) feet radially of a Water Supply Well.

94.06 DETERMINATION OF LOCATION OF PROPERTIES WITHIN ZONES. In determining the location of properties within the zones depicted on the wellhead protection zone maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable wellhead protection zone map shall be governed by the restrictions applicable to that zone.
2. For properties having parts lying within more than one zone as reflected on the applicable wellhead protection zone map, each part shall be governed by the restrictions applicable to the zone in which it is located.

94.07 REGULATIONS GOVERNING PRIMARY PROTECTION ZONES.

1. Permitted Uses. The following uses are permitted uses within the primary protection zone (Zone A):

- A. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa Department of Natural Resources (DNR) Separation Distances From Wells for sources of contamination is complied with.
- B. Playgrounds.
- C. Wildlife areas.
- D. Nonmotorized trails, such as biking, skiing, nature and fitness trails.
- E. Lawns & gardens.

2. Prohibited Uses. The following uses are prohibited uses within the primary protection zone (Zone A). Uses not listed are not considered permitted uses unless specifically listed under subsection 1 of this section, subsection 3 of this section, or issued a permit under Section 94.12:

- A. Wastewater treatment facilities;
- B. Septage and/or sludge spreading;
- C. Agricultural activities;
- D. Animal waste facilities;
- E. Animal confinement facilities;
- F. Animal waste landscaping;
- G. Gas stations;
- H. Asphalt products manufacturing;
- I. Electroplating facilities;
- J. Landfills or waste disposal facilities;
- K. Spray wastewater facilities;
- L. Junkyards or auto salvage yards;
- M. Pesticide, herbicide or fertilizer use, storage, mixing, handling, or manufacturing facilities (excluding residential uses consistent with labeled quantities);
- N. Hazardous and toxic materials storage and use;

- O. Hazardous and toxic waste facilities;
 - P. Radioactive waste facilities;
 - Q. Paint and/or coating manufacturing;
 - R. Salt Storage;
 - S. On-site private sewage systems;
 - T. Underground storage tanks;
 - U. Vehicle repair establishments, including auto body repair;
 - V. Printing and duplicating businesses;
 - W. Bus or truck terminals;
 - X. Dry cleaning businesses;
 - Y. Exterminating businesses;
 - Z. Basement storage tanks;
 - A1. Repair shops for items other than vehicles;
 - B1. All commercial or industrial businesses not specifically listed elsewhere in this chapter.
3. Discharge of Hazardous Substances Prohibited. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the primary protection zone (Zone A). Any person knowing or having evidence of a discharge shall report such information to the Water Superintendent.

94.08 REGULATIONS GOVERNING SECONDARY PROTECTION ZONES.

1. Permitted Uses. The following uses are permitted in the secondary protection zone (Zone B):
- A. All uses listed as permitted in the primary protection zone (Zone A);
 - B. Sewered residential, commercial and/or industrial uses not prohibited under subsection 2 of this section;
 - C. Aboveground storage tanks of six hundred sixty gallons or less;
 - D. Basement storage tanks.
2. Prohibited Uses. The following uses are prohibited uses within the secondary protection zone (Zone B). Uses not listed are not

considered permitted uses unless they are specifically listed under subsection 1 of this section, specifically listed under subsection 3, or issued a permit under Section 94.12:

- A. Landfills or waste disposal facilities;
- B. Spray wastewater facilities;
- C. Junkyards or auto salvage yards;
- D. Hazardous and toxic materials storage and use;
- E. Hazardous and toxic waste facilities;
- F. Radioactive waste facilities.

3. Uses Requiring Permits. The following uses are prohibited within the secondary protection zone (Zone B) unless a permit is issued for such use by the City Council as under Section 94.12. Uses not listed are not to be considered permitted uses unless specifically listed under subsection 1 of this section or issued a permit under Section 94.12:

- A. Underground storage tanks of any size;
- B. Private sewage systems;
- C. Agricultural activities;
- D. Septage and/or sludge spreading;
- E. Animal waste landspreading;
- F. Animal waste facilities;
- G. Animal confinement facilities;
- H. Gas stations;
- I. Pesticide, herbicide or fertilizer use, storage, mixing, handling or manufacturing facilities (excluding residential uses consistent with labeled quantities);
- J. Asphalt products manufacturing;
- K. Dry cleaning facilities;
- L. Electroplating facilities;
- M. Geothermal vertical closed loop wells, see Ordinance Chapter 153.

4. Discharge of Hazardous Substances Prohibited. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater or surface water within the secondary protection zone (Zone B). Any person knowing or

having evidence of a discharge shall report such information to the wellhead protection officer.

94.09 EXEMPT ACTIVITIES. The following activities or uses are exempt from the provisions of this chapter:

1. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
2. Mosquito-control spraying, providing that such uses shall comply with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture.
3. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
4. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facilities.
5. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
6. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
7. Consumer products located in the home which are used for personal, family or household purposes.
8. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
9. The use of water treatment chemicals connected with the operation of the well.

94.10 EXISTING USES. The use of structures or facilities existing at the time of the adoption of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance unless an exemption is granted by the City Council.

94.11 ACTIVITIES RELATING TO TOXIC AND HAZARDOUS SUBSTANCES. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.

94.12 PERMIT PROCEDURES. All written requests for permits allowed under subsections (2) and (3) of Sections 94.07 and 94.08 of this chapter will be made in writing to the City Council. Any permits granted will be made conditional and may include environmental and safety monitoring and/or a bond posted for future monitoring and cleanup costs. The permit will be made void if environmental and/or safety monitoring indicate the facility is emitting any releases of harmful contaminants to the soils, groundwater, or surface water. The facility will be held financially responsible for all environmental cleanup costs as under Section 36.04 of this Code of Ordinances. The construction of new structures or the structural modification or expansion of existing structures within the primary protection zone (Zone A) requires Council approval conditional upon the City Engineer's approval of the site plan. Site plan review costs will be the responsibility of the owner.

94.13 WELLHEAD PROTECTION OFFICER DESIGNATED. The Water Superintendent is designated as the wellhead protection officer unless another person is specifically designated by the Water Superintendent to supervise the implementation and enforcement of this chapter.

94.14 INSPECTIONS.

1. The wellhead protection officer or inspector shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the protection officer to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.
3. The wellhead protection officer or inspector may inspect each well field annually and shall maintain an inventory, if applicable, of all hazardous substances which exist in each primary zone. An emergency plan shall be prepared and filed with the County Emergency Management Agency indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled materials.
4. It shall be the duty of all law enforcement officers to assist in making inspection when such assistance is requested by the officer or inspector.

5. Hiawatha Water Department may provide nitrate and bacteria testing yearly for active private wells to residents within the City limits.

94.15 TRANSFER OF PROPERTY. The City requires that all abandoned wells and cisterns be properly sealed prior to finalization of property sales or transfers within the corporate limits of the City.

94.16 BUILDING PERMIT ISSUANCE. No building permits shall be issued which are a violation of this chapter or a source of contamination for a City well, and no commercial or industrial building permits shall be issued which are violations of the Iowa DNR Separation Distances From Wells.

94.17 UNDERGROUND TANK RESTRICTIONS. No new underground tanks will be allowed for auxiliary fuel storage in the primary zone.

94.18 CITY ACTION FOR INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the wellhead protection zones as indicated on the wellhead protection zone maps, continues to operate in violation of the provisions of this chapter, shall be subject to provisions and penalties provided in Title I Chapter 3 of this Code entitled Penalty (Section 364.22 of the Iowa Code). The City may file an action for injunctive relief in the court of jurisdiction.

94.19 NOTICE OF VIOLATION. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer or inspector shall give notice thereof, which notice shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations;
4. State that the violation(s) shall be corrected within a specified period of time as issued in writing by the inspector.

94.20 APPEALS PROCESS. For prohibited uses denied by the Water Superintendent the applicant may appeal to the Hiawatha City Council.

(Ch. 94 - Ord. 671 – Jan. 11 Supp.)

[The next page is 421]

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 Owner's Liability Limited
95.09 Use of Easements
95.10 Special Penalties
95.11 Sewer Emergencies
95.12 Sewer Emergencies Fees

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 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.

(IAC, 567-69.3[1])

3. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(IAC, 567-69.3[1])

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 a dwelling or other facility 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 the Public Works Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

(Ord. 695 – Aug. 11 Supp.)

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewers chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewers chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.3[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 Sewers 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 OWNER'S LIABILITY LIMITED. While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

95.09 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.

95.10 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewers 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.

(Ord. 482 – Oct. 99 Supp.)

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

95.11 SEWER EMERGENCIES. The City's Public Works Department is available on a 7-day a week, 24-hour a day basis to assist City property owners in the event that a sanitary sewer emergency occurs. In the event a property owner contacts the City to report a sanitary sewer emergency, including the backup up of sewer lines, line breaks, sewage odors and overflowing manholes or drains, and a Public Works employee goes out to the property to investigate or perform maintenance work in relation to the sanitary sewer emergency between the hours of 3:30 p.m. to 7:00 a.m. Monday through Friday, anytime on Saturday, Sunday, or holiday where City offices are closed; the property owner will be subject to fees associated with an after-hours service call, including use of equipment cost and labor, if after investigation by the Public Works employee, it is determined that the sanitary sewer emergency is not caused by the City owned sewer main. If a Public Works employee goes out to a property to investigate or perform maintenance work in relation to a sanitary sewer emergency and all work is performed during their normal work schedule of 7:00 a.m. to 3:30 p.m. Monday through Friday, or if after investigation by the Public Works employee the sanitary sewer emergency is determined to be caused by the City owned sewer main; no fees will be assessed to the property owner. The City will only maintain and repair City owned infrastructure.

(Ord. 695 – Aug. 11 Supp.)

95.12 SEWER EMERGENCIES FEES. All fees associated with Section 95.11 of this chapter will be mailed to the property owner as an invoice and said fees shall be paid to the City of Hiawatha by the due date listed on the invoice for payment.

1. Fees associated with activities as provided in Section 95.11 of this chapter shall be adopted by resolution passed by City Council.

2. Fees charged in connection with activities provided in Section 95.11 of this chapter shall cover only the City's costs, including but not limited to, City employee labor and the use of City equipment.

(Ord. 695 – Aug. 11 Supp.)

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee and Connection Charge
96.03 Connection Requirements
96.04 Sewer Tap

96.05 Inspection Required
96.06 Property Owner's Responsibility
96.07 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 thirty (30) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount set by resolution of the City Council. There shall be a sewer connection service charge for every sewer permit, in addition to the permit and inspection fee, where such a connection is made to a sanitary sewer constructed and financed by the City, and where the property has not contributed to the cost of constructing or otherwise obtaining a sanitary sewer by sewer service charges and/or special assessments. A sewer connection service charge of two thousand dollars (\$2,000.00) shall be due and payable at the time the building sewer permit application is filed, and is applicable to all such properties within one hundred fifty (150) feet of said City sewer. At the discretion of the Council, properties more than one hundred fifty (150) feet from the City sewer may be served under special agreements as to the connection service charge, but said agreements shall not provide for service for such properties at a cost less than the cost of extending the sewer main to the property to be served less any part of the said cost which has been previously assessed to the property under Chapter 384 of the Code of Iowa.

(Ord. 811 – Jan. 15 Supp.)

96.03 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the Plumbing Code adopted by the City, the laws of the State and other applicable rules and regulations of the City.

96.04 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, a “Y” saddle 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 and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent’s direction if such connection is approved.

96.05 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 Plumbing Code.

96.06 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.

96.07 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])

(Ch. 96 – Ord. 805 – Jan. 15 Supp.)

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Storm Sewer Connections
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 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 or natural outlet.

97.02 STORM SEWER CONNECTIONS. Storm water, springs or surface water shall be drained into public storm sewers wherever storm sewers are provided in adjacent rights-of-way in accordance with the following:

1. The installation and connection of drains from buildings and private properties to a storm sewer shall conform to the applicable plumbing and excavation standards of the City.
2. Each sump pump shall be fitted with an approved discharge pipe of a minimum diameter of 1½ inches, which shall discharge into the storm sewer.
3. Where a public storm sewer is not available, the sub-soil drainage shall not discharge over a public sidewalk or onto a public street, nor shall it return to the building or cause a nuisance to adjacent property.

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 (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 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 ($\frac{1}{2}$) 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 or 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. 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 of 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 premise 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

PRIVATE 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. Where 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 a private on-site wastewater treatment and disposal system complying with the provisions of this chapter.

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 to such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.3[3])

98.04 PERMIT REQUIRED. No person shall install or reconstruct a private 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 a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

(IAC, 567-69.3[3])

98.06 MAINTENANCE OF SYSTEM. The owner of a private 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 a private 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 Sewers 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 private on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than one acre.

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 in the amount of one hundred and seven percent (107%) of the bill for water and water service attributable to the customer for the property served.

(Ord. 748 – Sep. 13 Supp.)

(Code of Iowa, Sec. 384.84)

99.03 SPECIAL RATES. Where, in the judgment of the Mayor 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 Mayor 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 with and under the same terms and conditions as payment for water service as established by the Utility Board.

99.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

1. Procedures for delinquent final accounts and write offs shall be adopted by resolution passed by the City Council.

(Ord. 720 – Aug. 12 Supp.)

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 property or 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 distance 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 not more than twelve dollars (\$12.00) per lineal foot for said distance, and which 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.

4. Manholes. Manholes shall be installed at such locations as the City may designate.

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.

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CHAPTER 101

STORM WATER DRAINAGE SYSTEM

101.01 Purpose
101.02 Storm Water Drainage System
101.03 Rates
101.04 Payment of Rates

101.05 Lien for Nonpayment
101.06 Storm Water Emergencies
101.07 Storm Water Emergencies Fees

101.01 PURPOSE. The purpose of this chapter is to establish a storm water drainage system district and provide a means of funding the operation and maintenance of storm water management facilities including, but not limited to, retention or detention basins, storm sewers, inlets, ditches and drains.

(Ord. 877 – Dec. 17 Supp.)

101.02 STORM WATER DRAINAGE SYSTEM. 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. As additional areas are annexed to the City they shall immediately be included in the storm water drainage system district.

101.03 RATES. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on every City water meter, and on every residence, apartment and dwelling unit in mobile home parks. A monthly rate shall be collected on every residence, apartment and dwelling unit in mobile home parks. The rates shall be established by ordinance and billed and collected in the same manner as water service rates. The Council shall have the authority to establish different monthly rates for different classifications of City water meters.

(Ord. 877 – Dec. 17 Supp.)

101.04 PAYMENT OF RATES. The monthly rates are due and payable under the same terms and conditions as sewer service charges.

101.05 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

1. Procedures for delinquent final accounts and write offs shall be adopted by resolution passed by the City Council.

(Ord. 721 – Aug. 12 Supp.)

101.06 STORM WATER EMERGENCIES. The City's Public Works Department is available on a 7-day a week, 24-hour a day basis to assist City property owners in the event that a storm water emergency occurs. In the event a property owner contacts the City to report a storm water emergency including, the backup up of retention or detention basins, storm sewers, inlets, ditches, or drains, and a Public Works employee goes out to the property to investigate or perform maintenance work in relation to the storm water emergency; and after investigation by the Public Works employee the storm water emergency is determined to be caused by the privately owned portion of the storm water drainage system; labor and equipment fees can be assessed to the property owner as outlined in 101.07. The City will only maintain and repair City owned infrastructure.

(Ord. 877 – Dec. 17 Supp.)

101.07 STORM WATER EMERGENCIES FEES. All fees associated with Section 101.06 of this chapter will be mailed to the property owner as an invoice and said fees shall be paid to the City of Hiawatha by the due date listed on the invoice for payment.

1. Fees associated with activities as provided in Section 101.06 of this chapter shall be adopted by resolution passed by City Council.
2. Fees charged in connection with activities as provided in Section 101.06 of this chapter shall cover only the City's costs, including but not limited to, City employee labor and the use of City equipment.

(Ord. 696 – Aug. 11 Supp.)

CHAPTER 102

ILLICIT DISCHARGE TO STORM SEWER SYSTEM

102.01 Findings	102.06 Suspension of Access to the City's Storm Sewer System
102.02 Illicit Discharges Prohibited	102.07 Watercourse Protection
102.03 Illicit Connections Prohibited	102.08 Enforcement
102.04 Industrial Discharges	102.09 Appeal
102.05 Illicit Discharge Detection and Reporting, Cost Recovery	

102.01 FINDINGS.

1. The U.S. EPA'S National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR") requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR and NPDES a permit for the discharge of storm sewer from a Municipal Separate Storm Sewer System (MS4 Permit). The City is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City's MS4 Permit is on file at the office of the City Clerk and is available for public inspection during regular office hours.
2. As a condition of the City's MS4 Permit, the City is obliged to adopt and enforce an ILLICIT DISCHARGE TO STORM SEWER SYSTEM ordinance.
3. No State or Federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City may fund its operations under this chapter entirely by charges imposed on the owners of properties which are made subject to the Program by virtue of State and Federal law, and/or other sources of funding established by a separate ordinance.
4. Terms used in this chapter shall have the meanings specified in the Program.

102.02 ILLICIT DISCHARGES PROHIBITED.

1. For purposes of this chapter, a "responsible party" is one or more persons or entities that control or are in possession of or own property from which the illicit discharge occurs; or commit the "illicit discharge." Responsible parties shall be jointly and severally responsible for compliance with this chapter and jointly and severally liable for any illicit discharge for purposes of this chapter, "property" includes, but is not limited to, real estate, fixtures, facilities, premises of any kind located upon, under or above the real estate and vehicles. *(Ord. 648 – Feb. 10 Supp.)*
2. Nothing in this chapter shall be deemed to relieve a responsible party subject to an IDNR-issued industrial discharge permit or any other Federal, State or City permit, statute, ordinance or rule from any obligation imposed by such permit, statute, ordinance or rule if any such obligation is greater than any obligation imposed by this chapter.
3. Any discharge into the City's storm sewer system prohibited by the City's MS4 Permit, the terms of which are hereby incorporated by reference, shall be deemed an "illicit discharge" in violation of this chapter. The term "illicit discharge" also includes the definition contained in EPA'S Phase II storm water regulations as "any discharge to a municipal separate storm sewer that is not composed entirely of

storm water, except discharges pursuant to an NPDES permit and discharges resulting from firefighting activities.”

4. Sediment pollution originating from excessive erosion rates on a construction site not otherwise subject to the City’s Construction Site Erosion and Sediment Control (COSESCO) ordinance or sediment pollution entering a municipal storm sewer that causes a water quality violation as determined by the DNR shall also be deemed an illicit discharge in violation of this chapter.

102.03 ILLICIT CONNECTIONS PROHIBITED.

1. For purposes of this chapter, an “illicit connection” to the City’s storm sewer system is any physical connection or other topographical or other condition, natural or artificial, which is not specifically authorized by ordinance or written rule of the City, which causes or facilitates, directly or indirectly, an illicit discharge.

2. The construction, use, maintenance or continued existence of any illicit connection shall constitute a violation of this chapter.

3. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

102.04 INDUSTRIAL DISCHARGES. Any responsible party subject to an industrial NPDES discharge permit issued by the IDNR shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the enforcement officer prior to discharges to the storm sewer system authorized by said permit.

102.05 ILLICIT DISCHARGE DETECTION AND REPORTING, COST RECOVERY.

1. All detection activities permitted under this chapter shall be conducted by the City of Hiawatha or designated department, hereinbefore and after referred to as the “enforcement agency.”

2. The City shall not be responsible for the direct or indirect consequences to persons or property of an illicit discharge, or circumstances which may cause an illicit discharge, undetected by the City.

3. Every responsible party has an absolute duty to monitor conditions on property owned or controlled by them, to prevent all illicit discharges, and to report to the enforcement agency illicit discharges which the responsible party knows or should have known occurred. Failure to comply with any provision of this chapter is a violation of this chapter.

A. Notwithstanding other requirements of law, as soon as any responsible party has information of any known or suspected illicit discharge, the responsible party shall immediately take all necessary steps to ensure the discovery, containment, and cleanup of such discharge at the responsible party’s sole cost.

B. If the illicit discharge consists of hazardous materials, the responsible party shall also immediately notify emergency response agencies of the occurrence via emergency dispatch services.

- C. If the illicit discharge emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its reoccurrence. Such records shall be retained for at least three years.
- D. A report of an illicit discharge shall be made in person or by phone or facsimile or email to the enforcement agency immediately but no later than the end of the first business day after the day of discovery of the illicit discharge; notifications in person or by phone shall be confirmed by written notice addressed and mailed or emailed to the enforcement officer within twenty-four (24) hours of the personal or phone notice.
4. Any person or entity shall also report to the City any illicit discharge or circumstances which such person or entity reasonably believes pose a risk of an illicit discharge.
5. Upon receiving a report pursuant to the previous subsections, or otherwise coming into possession of information indicating an actual or imminent illicit discharge, the enforcement officer shall conduct an inspection of the site and thereafter shall provide to the responsible party a written report of the conditions which may cause or which have already caused an illicit discharge. The responsible party shall immediately commence corrective action or remediation and shall complete such corrective action or remediation within 21 days after discovery. If it is not possible to eliminate an illicit discharge within 21 days after discovery, the responsible party shall submit to the City the reasons why the discharge cannot be eliminated within 21 days of discovery and a plan which contains a timeline of activities which will result in the elimination of the discharge. This statement and plan shall be submitted within 21 days of discovery of the illicit discharge. If the City and Department of Natural Resources do not approve the plan, the responsible party will then be required to eliminate the discharge no later than a date specified by the City or Department of Natural Resources.
6. The enforcement agency shall be permitted to enter and inspect property subject to regulation under this section as often as is necessary to determine compliance with this section. If a responsible party has security measures that require identification and clearance before entry to its property or premises, the responsible party shall make the necessary arrangements to allow access by the enforcement officer. By way of specification but not limitation:
- A. A responsible party shall allow the enforcement agency ready access to all parts of the property for purposes of inspection, sampling, examination and copying of records related to a suspected, actual or imminent illicit discharge, and for the performance of any additional duties as defined by State and Federal law.
- B. The enforcement agency shall have the right to set up on any property such devices as are necessary in the opinion of the enforcement officer to conduct monitoring and/or sampling related to a suspected, actual or imminent illicit discharge.
- C. The enforcement agency shall have the right to require any responsible party at responsible party's sole expense to install monitoring equipment and deliver monitoring data or reports to the enforcement agency as the enforcement agency directs. The sampling and monitoring equipment

shall be maintained at all times in a safe and proper operating condition by the responsible party at responsible party's sole expense. All devices shall be calibrated to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to property to be inspected and/or sampled shall be promptly removed by the responsible party at the written or oral order of the enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the responsible party.

E. An unreasonable delay in allowing the enforcement officer access to property is a violation of this chapter.

F. If the enforcement agency has been refused access to any part of the property from which an illicit connection and/or illicit discharge to a municipal storm sewer is occurring, suspected or imminent, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the enforcement officer may seek issuance of a search warrant from any court of competent jurisdiction.

7. If it is determined that an illicit discharge is imminent or has occurred, the actual administrative costs incurred by the City in the enforcement of this chapter shall be recovered from the responsible party. The enforcement agency shall submit an invoice to the responsible party reflecting the actual costs, wages and expenses incurred by the City for the enforcement activities undertaken. Failure to pay charges invoiced under this chapter within thirty (30) days of billing shall constitute a violation of this chapter.

(Sec. 102.05 – Ord. 878 – Dec. 17 Supp.)

102.06 SUSPENSION OF ACCESS TO THE CITY'S STORM SEWER SYSTEM.

1. **Emergency Suspension.** The enforcement agency may, without prior notice, suspend storm sewer system access to a property when such emergency suspension is necessary to stop an ongoing or imminent illicit discharge. If the responsible party fails to immediately comply with an emergency suspension order, the enforcement officer shall take such steps as deemed necessary to prevent or minimize the illicit discharge. All costs of such action shall be recovered from the responsible party for the property identified as the source of the illicit discharge.

2. **Non-Emergency Suspension.** If the enforcement agency detects or is informed of circumstances which could cause an illicit discharge but such illicit discharge is not ongoing or imminent, and if the suspension of storm sewer system access would reasonably be expected to prevent or reduce the potential illicit discharge, the enforcement officer shall notify the responsible party of the proposed suspension of storm sewer system access and the time and date of such suspension. Notice to one responsible party for the property shall be sufficient notice to all. Remediation of the circumstances shall avoid a violation of this chapter provided that no illicit discharge occurs. In the alternative, the responsible party may request a meeting with the enforcement officer for the purpose of presenting information which the responsible party believes will show that remediation is unnecessary; and, if the enforcement officer finds such information is satisfactory, the enforcement agency

may rescind or modify the notice of suspension. If the enforcement officer finds such information unsatisfactory, the enforcement officer shall issue a final written order of suspension including the date and time of suspension; and such order may be appealed as provided hereinafter. Any physical action to reinstate storm sewer system access to property subject to such order prior to obtaining a court order of relief shall be deemed a violation of this chapter. An order of suspension shall not preclude charging the responsible party with a municipal infraction as provided hereinafter or taking any other enforcement action permitted by statute or ordinance.

(Sec. 102.06 – Ord. 878 – Dec. 17 Supp.)

102.07 WATERCOURSE PROTECTION. Every responsible party of property through which a watercourse passes shall keep and maintain that part of the watercourse within the property below the elevation of the 100-year flood free of trash, debris, grass clippings or other organic waste stockpiles and other obstacles that would pollute, contaminate or significantly alter the quality of water flowing through the watercourse. In addition, the responsible party shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

102.08 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its attorneys' fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.
2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Section 364.22 of the Iowa Code, and pursuant to the City's municipal infraction ordinance.
3. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City Attorney.

102.09 APPEAL. Administrative decisions by City staff and enforcement actions of the enforcement officer may be appealed by the applicant to the City Council pursuant to the following rules:

1. The appeal must be filed in writing with the City Clerk within five (5) business days of the decision or enforcement action.
2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the enforcement officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing and the relief requested.
3. The enforcement officer shall specify in writing the reasons for the enforcement action, a written summary of all oral and written testimony the enforcement officer intends to introduce at the hearing, including the names and addresses of all witnesses the enforcement officer intends to call, and copies of all documents the enforcement officer intends to introduce at the hearing.

4. The City Clerk shall notify the applicant and the enforcement officer by ordinary mail and shall give public notice in accordance with Chapter 21, Iowa Code, of the date, time and place for the regular or special meeting of the City Council at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) or more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The enforcement officer may be represented by the City Attorney or by an attorney designated by the City Council at City expense.

The decision of the City Council shall be rendered in writing and may be appealed to the Iowa District Court.

(Ord. 878 – Dec. 17 Supp.)

(Chapter 102 added by Ord.594 – Aug. 07 Supp.)

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted

105.06 Littering Prohibited
105.07 Open Dumping Prohibited
105.08 Toxic and Hazardous Waste
105.09 Prohibited Practices
105.10 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control 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 this chapter the following terms are defined:

1. “Discard” means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

2. “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)

3. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

4. “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.

5. “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)

6. “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)

7. “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)

8. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

9. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

(Code of Iowa, Sec. 455B.301)

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.

(IAC, 567-23.2[3a])

2. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Larger ceremonial fires (e.g., school pep rally bonfires) require a permit with the signature of the Fire Chief. Such fires must not be used for the purpose of refuse or waste disposal. Persons starting such fires must exercise due diligence in attending them.

(IAC, 567-23.2[3e])

3. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

105.06 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.07 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the 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 Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic

material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.09 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. 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.

105.10 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Linn County are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

CHAPTER 106

RESOURCE RECOVERY AND REFUSE DISPOSAL

106.01 Definitions

106.02 Collection Service

106.03 Collection Vehicles

106.04 Loading

106.05 Disposal Requirements

106.06 Frequency of Collection/Enclosure Requirements

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

1. "Aluminum cans" means disposable aluminum beverage containers.
2. "Ashes" means the residue from the burning of wood and other non-hazardous combustible material.
3. "Brush" means woody stems and branches, evergreen trimming and thorny brush, all of which must be greater than one-half inch in diameter.
4. "Bulky waste" means large household appliances such as stoves, refrigerators, television sets, washing machines, dryers, logs and other items of similar size and fixtures and materials too large to fit into a bag or rigid container. Bulky waste does not include tires, hazardous substances, dead animals and batteries.
5. "Collection bag" means a plastic watertight bag securely tied or sealed. The bag shall not exceed 50 pounds or 33 gallons when full. Collection bags may be used only for refuse.
6. "Commercial apartment" means a multiple-family dwelling containing five or more separate dwelling units.
7. "Commercial or non-profit business or institution" means any structure or property not used for residential dwelling purposes and which includes churches, schools and any commercial or non-profit business establishment or institution.
8. "Construction and demolition waste" means lumber, roofing material, sheathing, rubble, broken concrete, plaster and brick, conduit, pipe, wire insulation and similar material which results from a construction, demolition or remodeling process.

9. "Curb side" means the area next to the curb or the traveled portion of the roadway.
10. "Dwelling unit" means any room or group of rooms located within a building and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating.
11. "Grass and garden waste" means grass clippings, non-woody dead plants, weeds, flowers and twigs less than one-half inch in diameter.
12. "Hauler" means any person under contract with the City to collect, convey and dispose of and market recyclables and refuse.
13. "Household" means persons who reside together in a dwelling unit.
14. "Leaves" means leaves from deciduous trees and shrubs.
15. "Newspaper" means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Soiled newspapers are excluded.
16. "Non-collectible waste" means paint in liquid form, poisons, acids, caustics, explosives and other hazardous substances that may cause damage or injury to collection equipment or personnel, human or animal excrement and dead animals.
17. "Recyclables" means designated consumer wastes which are collected and marketed for resource recovery. They include, but are not necessarily limited to, chipboard, cardboard, paper, newspaper, magazines, catalogs, tin and steel cans, aluminum beverage containers, and #2 plastics.
18. "Recycling container" means a rigid container including lid, properly marked, to be used for the collection, blending together and disposal of recyclables.
19. "Refuse" means solid waste such as food waste, trash, rags, ashes, ceramics, glass and glass containers, obsolete household goods, certain plastics and similar items produced or originating within dwelling units. Recyclables shall be treated as refuse if not properly disposed of as set forth in Section 106.05. Refuse excludes household-generated hazardous waste.
20. "Residential premises" means a single-family dwelling unit and any multiple family dwelling up to and including four (4) separate dwelling units, including mobile homes.

21. “Residential solid waste” means refuse, recyclables, yard waste, leaves, brush and bulky waste.
22. “Rigid container” means a closed, waterproof container not exceeding thirty-three (33) gallons or fifty (50) pounds in capacity, of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying. Rigid containers may be used for yard waste or refuse.
23. “Tags” are the tags designated by the hauler which are placed on refuse, grass and garden waste and bulky waste to indicate that the disposal fee has been paid.
24. “Tin and steel cans” means clean containers made of tin-coated iron or steel in which food or beverages were preserved.
25. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.
26. Allowing for an automated residential trash collection. An automated system requires less manual lifting, fewer injuries and a more accurate record of waste volumes.
27. Automated Residential Trash Collection Only – “Rigid Container” means a closed, waterproof container of sizes as follows: thirty-five (35) gallons, sixty-five (65) gallons, ninety-five (95) gallons or up to fifty (50) pounds in capacity, of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying. Rigid containers may be used for yard waste or refuse.

(Ord. 782 – Aug. 14 Supp.)

106.02 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by the City.

106.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.04 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.05 DISPOSAL REQUIREMENTS. All persons residing in dwelling units located within the City shall dispose of refuse, yard waste and bulky waste in compliance with the provisions of this section. Recyclables may be diverted from each dwelling unit's refuse and disposed of in compliance with this section. The hauler may refuse to collect improperly prepared material and may notify the owner why it was not collected. No person shall dump any residential solid waste, construction and demolition waste or non-collectible waste in privately owned dumpsters.

1. Refuse.
 - A. Refuse shall be drained of liquid and placed within an approved collection bag or rigid container.
 - B. The monthly service fee will entitle the use of one collection bag or rigid container each week. A tag shall be prominently attached to each additional collection bag and/or rigid container that is set on the curb side for collection in the manner stated on the back of the tag. Tags may be placed on top of refuse in a container if covered by a secure lid. Bags shall not be placed in dumpsters.
 - C. Full rigid containers or collection bags shall be placed on the curb side for collection on the next scheduled collection date.
 - D. Refuse shall be collected weekly at the curb side. The hauler shall determine the weekday of collection and may substitute for holidays.
2. Recyclables.
 - A. Each dwelling unit shall have one properly marked recycling container.
 - B. Recyclables shall be commingled and must be placed in the recycling container and the lid shall be firmly affixed, if possible. The container shall be placed on the curb side for collection.
 - C. Only items designated as recyclables shall be included within the container.
 - D. Each dwelling unit is responsible for the security of the recycling container. Lost or stolen containers will be replaced by the property owner.
 - E. Recyclables will be collected weekly on the same day as refuse. Upon placement of the recycling container on the curb side, the contents thereof shall become the property of the hauler.

It is unlawful for any person, other than the hauler, to collect the contents thereof.

3. Grass and Garden Waste.

A. No more than fifty (50) pounds of grass and garden waste shall be placed in a rigid container. Grass and garden waste may be placed in paper yard bags at additional cost.

B. Each rigid container or paper yard bag shall have a tag prominently attached to it in the manner stated on the back of each tag.

C. Grass and garden waste shall be placed on the curb side for collection at least ten (10) feet from other solid waste.

D. No other solid waste shall be commingled with grass and garden waste.

E. Grass and garden waste shall be collected from March 15 through November 15 each year. Grass and garden waste will be collected on the same day as refuse during that period.

(Ord. 727 – Aug. 12 Supp.)

4. Brush and Tree Limbs.

A. All brush and tree limbs shall be neatly stacked parallel to the roadway with large cut ends to the right as one faces the street.

B. Stacks shall be no larger than four (4) feet in length and no more than fifty (50) pounds per stack.

C. No more than two (2) such stacks shall be placed along the curb for collection each month.

D. Thorny brush shall be bundled with natural fiber twine. Bundles shall be no larger than one (1) foot in diameter or more than four (4) feet long.

E. No brush or limbs shall be more than two (2) inches in diameter.

F. Brush shall be collected monthly from March 15 through November 15 each year. The hauler shall determine the day of the week for collection.

(Ord. 727 – Aug. 12 Supp.)

5. Bulky Waste. Bulky waste shall be collection by arrangement with the hauler.

6. Recyclable Corrugated Cardboard. Recyclable corrugated cardboard shall be separated by the generator from all other garbage,

refuse and rubbish for the purpose of recycling. Recyclable corrugated cardboard may be mixed with other approved recyclable materials for recycling. Recyclable corrugated cardboard that has been separated from all other garbage, refuse and rubbish may be mixed with approved compostable materials and may be composted. This subsection will apply to all haulers that utilize Bluestem Solid Waste sites.

(Ord. 474 – May-99 Supp.)

106.06 FREQUENCY OF COLLECTION/ENCLOSURE REQUIREMENTS.

All solid waste shall be collected from every residential premises once each week. Multi-family housing, commercial, industrial, non-profit businesses and institutional premises shall have solid waste collected at a minimum of once per week or on a more frequent basis to prevent trash receptacles and dumpsters from overflowing and becoming a nuisance.

1. Enclosure Requirement. All multi-family, office, commercial, civic, and institutional land uses approved after July 1, 2009, including new construction and additions to existing structures, which use garbage dumpsters shall provide enclosures for dumpsters and/or screening of trash and recycling, cardboard, grease and similar service or support containers meeting the requirements of this section. Enclosures are not required for single family residential use. The location and design of each enclosure shall be shown on the site plan and approved prior to issuance of structural building permits. All land uses listed above existing prior to July 1, 2009, shall not be required to install enclosures unless the City Council has declared that the property owner is a repeat violator.

2. Construction and Appearance.

- A. Each required enclosure shall be accessible for truck pick-up. Access drives shall be constructed of material and thickness to accommodate truck loading. Year round accessibility to the enclosure shall be maintained by the property owner or tenant.

- B. Each required enclosure shall be screened so that container is not visible from the adjacent property or from any public right-of-way thru the use of solid material or landscaping on at least three sides to at least the height of the top of the container, but not exceeding eight (8) feet above ground level. The use of materials that are not solid, such as slates in chain-link fencing, shall not be used to meet this requirement.

- C. Enclosure openings directly visible from a public right-of-way and/or adjoining properties shall have a gate constructed of solid material. For larger areas a separate gate access is encouraged.

D. Enclosures shall be of an adequate size to accommodate expected containers. It is encouraged to design the enclosure area to be expandable to accommodate future additional containers.

E. Enclosure structures shall be designed to protect the walls from damage by containers. Such protections may include use of barrier curbing, reinforced masonry wall, or other similar means.

F. Materials and elevations for enclosures that are attached to buildings shall incorporate the same principal colors and materials used in the adjacent or nearest façade of the primary structure.

G. If enclosures are to be attached to buildings they shall comply with the applicable fire codes and building codes.

H. Trash enclosures shall not be located within a required street front or street side setback or occupy area used for required parking spaces.

(Ord. 782 – Aug. 14 Supp.)

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 - \$500,000 per person.

- \$1,000,000 per occurrence.

Property Damage - \$ 100,000.

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 one hundred dollars (\$100.00) shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

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 and a current certification of insurance.

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.

9. Records. The hauler shall keep records of all yard waste tonnage, recycling tonnage and solid waste tonnage collected and shall prepare

and submit to the City, a minimum of twice a year, by June 30 and December 30, landfill diversion charts and recycling information required by the State Department of Natural Resources and by the County. This will include, but not be limited to, information regarding equipment, volume of the waste stream and any other information that is requested. The hauler agrees that this will be accurate information and any misrepresentation of information will be cause for the hauler's license to be terminated.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 State Code Restrictions
110.03 Excavations
110.04 Relocation of Installations
110.05 Restoration of Property

110.06 Indemnification
110.07 Extension of Mains and Pipes
110.08 Standard of Service
110.09 Franchise Fee

110.01 FRANCHISE GRANTED. 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 of Hiawatha, Iowa, hereinafter called the “City”, a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance, provided however, that there may be a re-evaluation prior to the end of year 15, with the opportunity for both parties to request amendments. If neither party requests such re-evaluation by means of a written notice to the other party at least 90 days prior to the expiration of year 15, this franchise will continue without change for the remaining 10 years.

110.02 STATE CODE RESTRICTIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2007, or as subsequently amended or changed.

110.03 EXCAVATIONS. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 RELOCATION OF INSTALLATIONS. 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 alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is 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 is not required to select the route or method that is less expensive. If project funds from a source other than the City are available to pay for the relocation of utility facilities, both parties will support efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 RESTORATION OF PROPERTY. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable in accordance with City specifications. City property located within the right of way damaged or disturbed by the Company will be restored to the condition that existed prior to Company work in the right of way. The Company shall not be responsible for any repairs or repair costs beyond the Company's pro rata share of the restoration or repair costs. The Company shall not be responsible to repair trenches, excavations, damages and damages to property caused by other entities and persons.

110.06 INDEMNIFICATION. Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.07 EXTENSION OF MAINS AND PIPES. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.08 STANDARD OF SERVICE. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

110.09 FRANCHISE FEE. The City reserves the right to impose a franchise fee in a manner consistent with state law. The City shall work with the Company to develop a methodology and timeline to implement the franchise fee.

1. In its monthly billing the Company shall include a franchise fee of three percent (3%) on the gross receipts, minus uncollectable amounts, from the sale of natural gas and mixed gas and distribution services for customers within the limits of the City. The Company shall commence collecting the 3% franchise fee on July 1, 2016 following the acceptance of the franchise by the Company and filed with the City Clerk. The franchise fee may increase up to a maximum of 5% on or after January 1, 2017. The Grantor shall give the Company a minimum 6-month notice prior to the request to implement an

increase in the franchise fee. Collection of the franchise fee shall cease at the earlier of the City's repeal of the franchise fee or the end of the franchise term.

2. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2(f) and 423B.5. The Company shall not grant exemptions or refunds of the franchise fee beyond that granted by the Code of Iowa.

3. The City agrees that the Company's obligations related to the franchise fee are limited to those obligations set forth in subsections 1, 2 and 6 of this section. The City further agrees to bear all costs (including attorney fees), and to defend, indemnify and hold the Company harmless from any and all liability, claims or causes of action associated with disputes related to the billing and/or collection of the franchise fee.

4. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the limits of the City, the Clerk shall provide written notification to an officer of Company of such annexation or change in the limits of the City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the limits of the City, commencing six (6) months from receipt of the written notice.

5. The sum of such additional charges for the franchise fee and any additional charges related to subsection 1 of this section shall be shown separately on the utility bill to each customer.

6. The Company shall remit collected franchise fees to the City on a quarterly basis, within thirty (30) days after last day of the last revenue month of the quarter.

7. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of the franchise.

(#1-7 Added by Ord.860 – Jun. 16 Supp.)

EDITOR'S NOTE

Ordinance No. 629 adopting a natural gas franchise for the City was passed and adopted on March 4, 2009.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise
111.02 Placement of Appliances
111.03 Installation of Meters
111.04 Standard of Service
111.05 Nonexclusive Franchise

111.06 Uninterrupted Service
111.07 Franchise Fee
111.08 Term of Franchise
111.09 Scope

111.01 GRANT OF FRANCHISE. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 PLACEMENT OF APPLIANCES. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said 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 erection or maintenance of said system.

111.03 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

111.04 STANDARD OF SERVICE. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

111.05 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

111.06 UNINTERRUPTED SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.07 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of three percent (3%) on the gross receipts from the sale of electricity for customers within the limits of the City. The Company shall commence collecting the 3% franchise fee on July 1, 2016 following the acceptance of the franchise by the Company and filed with the City Clerk. The franchise fee may increase up to a maximum of 5% on or after January 1, 2017. The Grantor shall give the Company a minimum 6-month notice prior to the request to implement an increase in the franchise fee. Collection of the franchise fee shall cease at the earlier of the City's repeal of the franchise fee or the end of the franchise term.

2. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of the franchise.

(Ord. 861 – Jun. 16 Supp.)

111.08 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 said Company, as herein provided.

111.09 SCOPE. 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 other than those approved and

accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

EDITOR'S NOTE

Ordinance No. 580 adopting an electric franchise for the City was passed and adopted on August 17, 2005.

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CHAPTER 111A

ELECTRICAL FRANCHISE A

111A.01 Franchise Granted	111A.14 Indemnification
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111A.03 Excavating	111A.16 Notice
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111A.05 Tree Maintenance	111A.18 Refund of Fee
111A.06 Service Provided	111A.19 Termination of Collection
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111A.08 Service Continuous	111A.21 No Right of Way Management Fee
111A.09 Franchise Fee Billing	111A.22 Term
111A.10 Franchise Fee Shown Separately	111A.23 Expense of Publication
111A.11 Franchise Fee Collection	111A.24 Conditions Upon Acceptance
111A.12 Franchise Fee Administration Cost	111A.25 Severability
111A.13 Annexation	111A.26 Entire Agreement

111A.01 FRANCHISE GRANTED. There is hereby granted to Linn County Rural Electric Cooperative Association, hereinafter referred to as the “Company”, its electrical energy suppliers as necessary to provide Company distribution at 25,000 Volts or less, its successors and assigns, the right and franchise to construct, reconstruct, repair, maintain and operate in the City of Hiawatha, Linn County, Iowa, systems for the distribution of electric power, and the right to construct, reconstruct, repair, maintain and operate the necessary poles, lines, wires, conduits and other appurtenances for the distribution of electric power and energy along, under and upon the streets, avenues, alleys and public ways in the City of Hiawatha, Linn County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public ways, distribution lines through the said City of Hiawatha, Linn County, Iowa to supply individuals, corporations, communities and municipalities both inside and outside of said City with electric light and power appurtenances for the period of twenty-five (25) years; also the right of eminent domain as provided in section 364.2 of the Code of Iowa.

111A.02 PLACEMENT NOT TO INTERFERE. The poles, lines, wires, circuits, and other appurtenances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111A.03 EXCAVATING. In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

111A.04 EXISTING FACILITIES. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

111A.05 TREE MAINTENANCE. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall be performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

111A.06 SERVICE PROVIDED. During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

111A.07 FRANCHISE NON-EXCLUSIVE. The franchise granted by this Ordinance shall not be exclusive.

111A.08 SERVICE CONTINUOUS. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111A.09 FRANCHISE FEE BILLING. In its monthly billing the Company shall include a franchise fee of three (3%) on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

111A.10 FRANCHISE FEE SHOWN SEPARATELY. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

111A.11 FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list.

111A.12 FRANCHISE FEE ADMINISTRATION COSTS. The City recognizes that the costs of franchise fee administration are not charged directly to the City and the City and Company agree that the Company may only charge such administrative fees as are provided for in state statute.

111A.13 ANNEXATION. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate approval

authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all be provided to the Company by certified mail; such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

111A.14 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

111A.15 FRANCHISE FEE REMITTED. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

111A.16 NOTICE. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 9 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the city council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

111A.17 RESPONSIBILITY ON USE. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

111A.18 REFUND OF FEE. The Company shall not, under any circumstance be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111A.19 TERMINATION OF COLLECTION. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

1. The obligation to collect and remit the fee imposed by this Ordinance is modified if:

A. Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this Ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

C. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this Ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion

it believes it is required to do so in order to comply with revised legal requirements.

2. The obligation to collect and remit the fee imposed by this Ordinance is repealed, effective as of the date specified below with no liability therefore, if:

A. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

B. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly ; or

C. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa effective as of the date of the final agency order from which the appeal is taken.

111A.20 NO OTHER FEE FOR USE. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appurtenances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this Ordinance.

111A.21 NO RIGHT OF WAY MANAGEMENT FEE. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111A.22 TERM. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the periods of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

111A.23 EXPENSE OF PUBLICIATION. The expense of the publication of this Ordinance shall be paid by the Company.

111A.24 CONDITION UPON ACCEPTANCE. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

111A.25 SEVERABILITY. If any section or provision of this ordinance is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable.

111A.26 ENTIRE AGREEMENT. This Ordinance sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any Ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this Ordinance, that create additional burdens upon the Company, or which delay utility operations.

(Ch. 111A – Ord. 863 – Jun. 16 Supp.)



CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Police Power

112.01 FRANCHISE GRANTED. Northwestern Bell Telephone Company, a corporation (the “Company”), its successors and assigns are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of twenty-five (25) years from the effective date of the ordinance codified by this chapter, for the purpose of constructing, maintaining and operating a general telephone system within the City.

112.02 POLICE POWER. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

EDITOR’S NOTE

Ordinance No. 177 adopting a telephone franchise for the City was passed and adopted on October 6, 1982. Voters approved the franchise at an election held on December 7, 1982. The Company accepted the franchise on January 6, 1983.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

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113.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Cable television system” or “system” means all goods, wires, cables, conduits, manholes, fixtures, equipment, attachments, and all appurtenances thereto which are used in the construction, operation and maintenance of the cable television franchise or which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party, and distributes such signals and programming by wire, cable or other means to persons who subscribe to such service.
2. “Company” means Cox Cable Cedar Rapids, Inc., an Iowa corporation maintaining its offices in Hiawatha, Iowa, or such other proximate location as agreed by the City and Company, and its lawful successors and assigns, the grantee of rights under this chapter.
3. “Federal Communication Commission” or “FCC” means the federal agency constituted by the Communications Act of 1934 as amended.
4. “Goods” means all things which are moveable whether or not attached to realty.
5. “Gross Revenues” means all revenue received from or in connection with or related, directly or indirectly, to the operation of the system within the City by the Company or its affiliates, subsidiaries,

parents, or any person which the Company has a financial interest from or in connection with the operation of the system within the City, with no deductions whatsoever.

6. "Pay cable" means the delivery of programming to subscribers for a fee or charge, in addition to a basic service charge, on a per channel, per program or other subscription basis.

7. "Person" means an individual, corporation, government, or governmental subdivision or agency, business, trust, estate, trust, partnership or association, or any other legal entity.

8. "Reasonable time" means not to exceed 10 working days.

9. "Subscriber" means a person owning or leasing television receiving goods which are physically wired to receive any transmission from the system or a purchaser of any programming service delivered over the system.

113.02 GRANT OF AUTHORITY. This regulatory ordinance which grants to the Company the nonexclusive right to construct, operate and maintain a cable television system in the City, was passed and adopted by the Council after a public hearing. The hearing was held after public notice was given and the notice afforded all interested parties the opportunity to comment upon the legal, character, financial technical and other qualifications of the Company. The City hereby grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above and over and under highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and in all extensions thereof and additions thereto, in the City necessary for the construction, maintenance and operation within the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. This grant includes the right to use and occupy streets, alleys, public ways and public places and all manner of easements for purpose and in the manner set forth. The City specifically reserves the right to grant additional franchises to any person, firm or corporation at any time.

113.03 FRANCHISE TERM. This franchise may be renewed by the Council upon application of the Company pursuant to the procedures established in this section, and in accordance with the then existing rules of the Federal Communications Commission and applicable law. The franchise granted to the Company shall terminate fifteen (15) years from the effective date of the ordinance codified in this chapter. The City shall have the right to

initiate a compliance review as it relates to this ordinance at five (5) year intervals during the term of this agreement. At least thirteen (13) months prior to the expiration of the franchise, the Company shall inform the Council in writing of its intent to seek renewal of the franchise.

113.04 CONTINUITY OF SERVICE MANDATORY. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Company are honored. In the event that the Company elects to overbuild, rebuild, modify, or sell the system, or the City terminates or fails to renew the franchise, the Company shall do everything in its power to insure that all subscribers receive continuous, uninterrupted service regardless of circumstances. In the event of a change of company, the current Company shall cooperate with the City to operate the system for a temporary period in maintaining continuity of all service to all subscribers. In the event that the Company fails to operate the cable television system for five (5) consecutive days without prior approval of the Council, except for strikes, acts of God, or other circumstances beyond the control of the Company, the City or its agents shall operate the cable television system until such time that the Company again operates the system or until a new operator is selected, in the event of revocation. If the City is required to fulfill this obligation of the Company, the Company shall reimburse the City for any costs or damages that are the result of the Company's failure to perform.

113.05 RIGHT TO REQUIRE REMOVAL UPON EXPIRATION. At the expiration of the term for which this franchise is granted, or upon its termination and cancellation, as provided for herein, the City shall have the right to require the Company to remove at its own expense all portions of the cable television system from all streets within the City and the Company shall restore said streets to a condition reasonably satisfactory to the City.

113.06 RESOLUTION OF DISPUTES. It is the intent of the City to provide for the orderly resolution of any controversy or dispute between the Company and the City arising out of the enforcement or interpretation of any section or provision of this chapter, or any rule, regulation or procedure relating to cable communications matters. Fact finding and mediation shall be the means of resolving the great majority of such controversies or disputes. Only those matters specifically designated as arbitrational may be submitted to that process for binding resolution. None of these methods, however, shall be the first resort of the parties, but shall be undertaken only after reasonable time and full effort to reach agreement by negotiation. Any controversy or dispute, upon the election of either the Company or the City shall be submitted to an expert individual acceptable to both parties for an investigation of the facts and a

report thereof. Such fact finding shall be for the purpose of developing better information for the use of both parties and shall not be binding upon either party. All fees or other expenses resulting from such fact finding shall be borne equally by the Company and the City. Any controversy or dispute, upon the election of either the Company or the City, shall be submitted to an expert individual, acceptable to both the Company and the City for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All fees and other expenses resulting from mediation shall be equally borne by the Company and the City. Only those matters which are expressly arbitrational under the provisions of this franchise may be submitted to arbitration. Arbitrational matters may be submitted to a single expert individual, if both parties agree to do so. Otherwise, arbitrational matters shall be submitted to a three (3) member expert panel. Arbitration shall be binding on both parties. Arbitrated matters shall be held to have been adjudicated and settled, and not open, either directly or indirectly, for review pursuant to the provision of the rules and procedures of the American Arbitration Association. All fees or other expenses resulting from such arbitration shall be paid by the Company and the City as hereinafter provided. In the case of fact finding and mediation, both parties shall present a maximum total of three (3) names each for possible service as experts. If there is no agreement on any of the names, a judge or competent jurisdiction shall select a person to fulfill the function of expert. In the case of arbitration, both parties shall agree upon the number of persons to serve on the arbitration panel. Such number shall be either one or three. If a single member panel is agreed upon, both parties shall name jointly the person utilizing the procedures established for fact finding and mediation. If a three member panel is agreed upon, one person shall be named by the City, one shall be named by the Company, and a third person shall be named by agreement between the Company and the City. The third person shall serve as the presiding officer of the panel. If there is no agreement on the single arbitrator or the presiding officer of the three member panel, the procedures established for fact finding and mediation shall be followed. The fees of single experts and arbitrators shall be equally borne by the Company and the City. The fee of the arbitrator who represents each of the parties shall be borne by that party. The fee of the presiding officer of an arbitration panel shall be equally borne by the Company and the City. The expenses of fact finding and mediation shall be equally borne by the Company and the City. The expenses of arbitration shall be borne as determined by the arbitration panel in its award of finding.

113.07 COMPLIANCE WITH LAW, REGULATIONS AND ORDINANCES. The Company shall at all times be subject to all lawful

exercise of statutory power by the City and any rules and regulations the City may promulgate by ordinance or resolution. The construction, operation and maintenance of the system shall be in full compliance with the applicable provisions of the National Building and Electrical Code and National Electric Safety Code as they now exist or may hereafter be amended and in full compliance with all other codes, ordinances, rules and regulations adopted by the City, the state, or the United States or any agency thereof which may now have or hereafter acquire jurisdiction over the operation of the system by the Company.

113.08 LIABILITY AND INDEMNIFICATION. The Company shall defend, indemnify and hold the City harmless for and from all liability, damage, cost and expenses arising from or out of claims of injury to persons or damage to property occasioned by reason of any conduct undertaken by the Company or city pursuant to this chapter. The City shall notify the Company within a reasonable time after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract on the part of the Company. A failure or delay of the City to notify the Company shall not relieve the Company of its obligation to the City, unless the Company is prejudiced by such failure or delay. The Company further agrees as follows:

1. Worker's Compensation and Employer's Liability. The Company shall carry Worker's Compensation Insurance, with statutory limits, and Employer's Liability Insurance as required by law.
2. Comprehensive Liability. The Company shall carry Comprehensive General Liability and Comprehensive Automobile Liability Insurance with bodily injury limits of not less than three million dollars.
3. Copyright Infringement. The Company shall carry Copyright Infringement Insurance, for copyright infringement occasioned by the operation of the Company under this chapter or alleged to have been so caused or occurred with a minimum limit of one million dollars.
4. City To Be Named as Additional Insured. The Company with respect to its Worker's Compensation Insurance and Employer's Liability Insurance and Comprehensive General Liability and Copyright Infringement Insurance, shall name the City as an additional insured with separate limits of no less than the amount required of the Company.
5. Company and Agency Requirements. All insurance required of the Company shall be written by insurance companies approved by the

City and authorized to do business in Iowa and with the Company having agents readily available to service the insurance policy and each insurance company shall agree to furnish the City with certified copies of certificates of insurance and to provide that the insurance shall not be canceled unless thirty (30) days' prior written notice shall be given to the City.

6. Breach of Franchise. If the Company should commit a breach of franchise and not remedy the breach within sixty (60) days after having received written notice from the City to do so, then the City, at its discretion, may declare a portion of the performance bond required from the Company equivalent to the amount of damages sustained by the City which are directly attributable to the breach, forfeited and the Company shall thereupon be required to remedy the breach with reasonable dispatch and with sixty (60) days of such forfeiture replace the forfeited portion of the bond. This subsection shall not serve to absolve the Company of any of its obligations under this chapter or the rules and regulations of the Federal Communications Commission.

7. Notice of Termination. The Company shall pay all premiums chargeable for all insurance and shall keep the same in full force and effect at all times throughout the term of the franchise and during any renewal thereof and during the period of time required for the removal of the system subsequent to the termination of the franchise. The performance bond required of the Company shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to sixty (60) days after written notice to that effect is given to the City.

113.09 BOND. Within thirty (30) days after the effective date of the franchise, the Company shall obtain and shall maintain at its cost and expense throughout the term of the franchise and shall file with the Clerk, a bond with a company authorized to do business in the State of Iowa and found acceptable to the City, which bond shall be in the sum of twenty-five thousand dollars (\$25,000) and which bond shall run to the City and shall guarantee the timely construction and full activation of the cable television system and which shall provide but not be limited to the following conditions: there shall be recoverable by the City, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the City resulting from the failure of the Company to satisfactorily complete and fully activate the cable television system and shall be conditioned upon the faithful performance by the Company of all duties and responsibilities, expressly or implicitly set forth in this chapter, and such other requirements as may be provided by law and the actual payment by the Company to the City of all sums due the City under the provisions of this

chapter and any and all damages, loss or costs suffered by the City resulting from the failure of the Company to remove the system at the expiration, termination or cancellation of the franchise as set forth in this chapter. Any extension of prescribed time limits set forth in this chapter must be specifically authorized by the Council. Such extension shall be authorized only when the Council finds that such extension is necessary and appropriate due to causes beyond the control of the Company. The rights reserved to the City with respect to the bond are in addition to all other rights of the City, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to said bond shall affect any other right the City may have. If the Company should commit a breach of this chapter and not remedy the breach within sixty (60) days after having received written notice from the City to do so, then the City, at its discretion, may declare a portion of the bond equivalent to the amount of damages sustained by the City or fine assessable to the Company forfeited and the Company shall thereupon be required to remedy the breach with reasonable dispatch and within sixty (60) days of such forfeiture replace the forfeited portion of the bond. This section shall not serve to absolve the Company of any of its obligations under this chapter or the rules and regulations of the Federal Communications Commission. The Company shall pay all premiums chargeable for the bond and shall keep the same in full force and effect at all times throughout the term of the franchise granted by this chapter and during any renewal thereof and during the period of time required for the removal of the system subsequent to the termination, revocation or cancellation of the franchise granted by this chapter. The bond required by this section shall contain a provision that shall not be terminated or otherwise allowed to expire prior to sixty (60) days after written notice to that effect given to the City.

113.10 PENALTIES. For violations of this chapter, the penalty shall be as follows:

1. Failure To File Reports. For failure to provide data and reports as requested by the Council — fifty dollars (\$50.00) per day.
2. Failure To Comply With Requests of Council. For persistent failure to comply with reasonable recommendations of the Council relating to rates and/or services as provided by this chapter and such reasonable requests or recommendations as may be made pursuant to authority granted by this chapter — fifty dollars (\$50.00) per day.
3. Failure To Meet FCC Requirements. In the event that the system fails to meet any FCC system performance standards for a full 3-month period, Company shall reduce all subscriber fees by twenty-five percent

(25%) until all FCC performance standards are met. The City shall notify the Company during the first month of the 3-month period that the system has failed to meet FCC system performance standards. System performance standards shall be those set forth by the Federal Communications Commission. A copy of the FCC regulations shall be kept on file with the Clerk.

113.11 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURE. The following regulations shall be applicable to system construction, maintenance and operation.

1. General. Upon the grant of authority to construct and maintain a cable television system in the City, and in furtherance of the Company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for the use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State or Federal agency may require. The Company shall construct its system using materials of good and durable quality and all work involved in the construction, installation, maintenance or repair of the system shall be performed in a safe, thorough, reliable and workmanlike manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition.

2. Non-Interference. The Company's system shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.

3. Line Extensions. In the event that the City shall annex territory authorized by law, the Company shall extend energized trunk cable to the portion of the City so annexed within a reasonable time acceptable to the Council but not less than one year from the date the annexation is certified, unless said extension is technically unfeasible or economically

non-compensatory, as defined in Section 113.12(1) of this chapter, or unless such annexed territory is already served by a cable system.

4. Interference With Property. The Company's system shall be located as to cause no interference with the proper use of streets, alleys and other public ways and place, and to cause no interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. Whenever in any place within the City both the electric and telephone utilities shall be located underground, it shall be the obligation of the Company to locate or cause its property to be located underground within such places including service lines to the house. Whenever in any place within the City both the electric and telephone utilities or either one of them, shall be located upon poles above ground, the Company may locate or cause its cables to be placed upon the existing poles above ground. If either telephone or electric service lines to the house are overhead, then the subscriber shall have the choice of cable television service drops being placed underground or overhead at the subscriber/property owner's cost. If the electric utility and telephone utility shall be located underground in any place within the City after the Company shall have previously installed its property above ground, it shall nevertheless, at its own expense and at the same time or immediately thereafter, remove and relocate its property underground in such places. In areas of the City where electric and telephone utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity to and with the approval of the Council. Facilities of the Company may be placed underground at a property owner's request in an area where electric utilities and telephone utilities are overhead and the additional expense shall be paid by the property owner requesting the underground placement. The provisions of this section shall control over other conflicting provisions of this Code of Ordinances.

5. Restoration of Property. In case of any disturbance of pavement, sidewalk, driveway, ground or other surfacing the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, ground, bushes, grass, plantings and other similar items or surface of any area disturbed, in as good of condition as before the work was commenced. The City Engineer or a designee shall approve in advance the time allowed for the Company to disturb pavement, sidewalk, driveway, ground or other surfacing. Unless the City Engineer or designee shall approve a request of the City to do

otherwise, all installations under a street, alley or driveway shall be prohibited.

6. Grade Changes. In the event that at any time during the period of this chapter the City shall elect to alter, or change the grade of any street, alley or other public way, the Company upon reasonable notice by the City, shall remove, relay and relocate any part of its system at its own expense.

7. Utility Lines And Fixtures. The Company shall not place any part of its system where it will interfere with any gas, electric or telephone fixture, water hydrant or main, or sewer and shall assist the City, within two (2) hours of request, in locating any part of the system.

8. Construction Plans Filed. The Company shall, prior to the commencement of any construction of any part or phase of the system, submit a plat and construction schedule to the Council. The plat and schedule shall be approved by the Council or its authorized representative prior to the commencement of any construction by the Company.

9. Applicability Of Other Ordinances. All other City ordinances concerning street occupancy and construction shall be in full force and effect upon the cable television system installation.

10. Moving Of Buildings. The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily and promptly raise or lower its wires to permit the moving of said buildings. The expense of temporary removal, raising or lowering of wires shall be paid by the person requesting the service, and the Company shall have the authority to require payment in advance. The Company shall not be given less than forty-eight (48) hours' advance notice to arrange the temporary wire changes.

11. Trees. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent their branches from coming in contact with wires and cables of the Company. All trimming shall be done under the direction and supervision and with the prior approval of the City. All trimming authorized by this chapter shall be done at the expense of the Company.

12. Service To City. The Company shall provide upon request and without installation or any type of continuing user charge or fee, one outlet of basic cable service to any municipal building owned or leased and operated by the City. All other reasonable requests will be

considered by the Company, and if agreed to, provided at no cost for installation of services.

13. Service To Schools and Hospitals. The Company shall provide upon request, and without normal installation fee or any type of continuing user charge, one outlet of basic cable service to any public or parochial elementary or secondary school buildings, to any non-profit higher education buildings, to any buildings or private or public non-profit facilities licensed by the State of Iowa as hospitals, and to any other non-profit public educational agencies. All other reasonable requests will be considered by the Company, and if agreed to, provided at no cost for installation of services.

14. Equipment For Educational Agencies. The Company shall provide upon request and without installation or any type of continuing use charge or fee, service to those agencies locations listed in subsections 12 and 13 above who demonstrate the capabilities to utilize channels on the system for the dissemination of educational information either for classroom instruction or in-home use including the necessary hardware, excluding production equipment, or equipment required to feed a signal back to the headend. The Company shall not be required to provide more than three modulators at no cost under this subsection; however, the Company shall provide additional modulators hereunder at the Company's cost.

15. Converters Provided. For those agencies listed in subsections 12 and 13 converters shall be provided by the Company for each outlet.

113.12 LINE EXTENSIONS. The following regulations shall be applicable to line extensions.

1. Extensions Required. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically non-compensatory as approved by the Council. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, the Company shall extend service to new subscribers, at the approved installation charge and monthly rate for customers of that classification where there are an average of fifty (50) homes per linear mile of new cable construction.

2. Exceptions. In the event that the standards of subsection 1 above are not met, extensions of service shall be required only on a basis which is reasonable and compensatory as shall be determined by the Council. In any individual case where it can be shown that it is unreasonable and uncompensatory to extend cable it shall be an option of the City to request the Company and the property owners to agree on a sharing of the costs of the extension of the cable and that as future subscribers use the extended line reimbursement be made to the original parties. In the event the owner and Company are unable to agree the City at its option may require that the Company enter into arbitration in the same manner and to the same extent as if the City were party to the dispute.

3. Areas Excluded. Whenever the Company desires to exclude an area of the City from service by reason of the provisions of subsection 1 above it shall so advise the Council and the Council shall set a public hearing and provide for the publication of notice at the cost of the Company and at the public hearing the persons who may be affected by the lack of said service shall have the opportunity to appear and be heard.

113.13 COMPLIANCE WITH STANDARD. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and other applicable ordinances and regulations of the City or other County, State or Federal agencies including all amendments thereto.

113.14 SUBSCRIBER RIGHTS. Subscribers shall have the following rights in addition to any other rights which may be available to them.

1. Outside Antenna. The Company shall not create rules and regulations that preclude the subscriber from having an outside antenna system and antenna switch device.

2. Switch Devices. The Company shall publish a list of acceptable switch devices and make said list available to its subscribers. The Company in no way shall be responsible for servicing of switching devices not purchased from the Company.

3. Receiving Devices. The Company rules and regulations shall not prohibit the removal and reinstallation of a receiving device from any subscriber by a trained, authorized company or firm dealing in the repair and maintenance of these devices. There shall be no disconnection or installation charge or fees for disconnection and reinstallation during the repair and replacement of any receiving device.

4. TV Reception Interference. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City. The Company shall not require the removal, nor offer to remove, any existing antenna as a condition of providing cable service. The Company shall allow switching devices from the service to the subscriber's television antenna as long as they provide no interference or hazard to the system.

5. Termination of Service. Upon termination of service to any subscriber, for any reason, the Company, upon the subscriber's written request, shall remove, within five (5) working days, all of its facilities and equipment from the subscriber's premises without charge.

6. Failure To Provide Service. If the Company fails to provide any material service requested by a subscriber in accordance with the standards set forth in this chapter, the Company shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber. This section includes any advance charges or fees which may be repaid on a daily prorated basis.

113.15 APPROVAL OF TRANSFER. A franchise granted in accordance with this chapter shall not be transferred except pursuant to the following:

1. Consent of Council. The franchise shall not be assigned or transferred either in whole or in part or leased, sublet, or mortgaged in any manner, nor shall title thereto either legal or equitable, or any right, interest, or property therein passed or vested in any person either by an act of the Company or by operation of law without the consent of the Council.

2. Change of Ownership. Prior approval of the Council shall be required where ownership or control of more than ten percent (10%) of the right of control of the Company is acquired by any person or group of persons acting in concert. By its acceptance of the franchise the Company specifically agrees that any such acquisition occurring without prior approval of the Council shall constitute a violation of this chapter.

3. Mortgage or Pledge of System. Nothing in this section shall be deemed to prohibit a mortgage or a pledge of the system or any part thereof or a leasing by the Company from another person of system equipment or any part thereof for financing purposes or otherwise. Any

such mortgage, pledge or lease shall be made only with the prior approval of the Council and shall be subject and subordinate to the rights of the City under this chapter and any other applicable law.

4. Approval Not To Be Unreasonable Withheld. City approval shall not be unreasonably withheld if the vendee, assignee or lessee has filed with the appropriate officials of the City an instrument duly executed, reciting the fact that such sale, assignment or lease accepting the terms of this chapter and agreeing to perform all conditions thereof and if proper evidence is submitted showing such person capable of performing the service.

113.16 COMPLIANCE WITH FCC RULES AND REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing cable television operations promulgated by the Federal Communications Commission. This shall include adherence by the Company to Federal Communications Commission rules regarding technical and engineering specifications involved in the construction of the system and a signal carriage therein.

113.17 CHANNEL CAPACITY, ACCESS AND PICTURE QUALITY. The cable television system to be installed shall:

1. Capacity of Technology. Have a 62 channel capacity within 3 years and 77 channel capacity within 6 years of the enactment of the renewal of this franchise and a technical capacity for return or two-way communication. The Company shall install and maintain a cable television system in keeping with the latest state of the art technology including the capability for satellite reception and two-way communication.
2. City Government Channel. Provide one channel, without charge, for the shared use for the City. This channel may be shared with other services with the understanding that City business has the first priority on usage.
3. Educational Channel. Provide at least one shared channel without charge for educational uses.
4. Public Access Channel. Provide at least one shared channel for the City for public access uses. To the extent time is available, channel access may also be used for other broadcasts and non-broadcast services.
5. Color Capability. Be capable of passing standard color television signals without the introduction of material degradation of color fidelity

and intelligence from the head and input to the subscriber's television receiver and shall be capable of 24 hour a day continuous operation.

6. Operating Rules. The Company shall establish operating rules for channels, which rules shall be available for public inspection and the rules shall provide for availability on a first come, first served basis and shall be non-discriminatory in effect and shall not allow for censorship of access programming.

113.18 INTERCONNECTION. The Company may be required to interconnect its system with any other broad band communication facility operating in an adjacent territory, which is technically compatible with the system. Interconnections shall be made within sixty (60) days of a request made by the City. For good cause shown the Company may request and the Council may grant reasonable extensions of time to comply with the requirements.

113.19 CITY RIGHTS. The City reserves to it, in addition to any other right it may have, the following:

1. City Rules. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the statutory power.
2. Use of System by City. The City has the right of maintaining upon poles or in the underground conduits of the Company wire and fixtures necessary for a traffic signal control system or a police or fire alarm system. The wires and fixtures shall be installed and maintained at the expense of the City and shall comply with reasonable rules and regulations of the Company designed to ensure a minimum danger of contact or conflict between the wires and fixtures of the Company. The Company shall charge no fee to the City for uses under this section.
3. Emergency or Disaster. In the case of any emergency or disaster declared by the Governor, Mayor, Fire Chief, Police Chief, Civil Defense Director, or other appropriate official, the Company shall, upon the request of the City, make its facilities available to the City for emergency use during the emergency or disaster period. The Company shall, at its expense, provide the City with the emergency override equipment activated by phone lock-out. At any time in case of a fire or disaster it shall become necessary in the judgment of the Fire Chief, Police Chief or Civil Defense Director to cut or move any part of the system, it may be done and any subsequent repairs shall be made by the Company, at its own cost and expense without charge against the City. The Company

shall incorporate into its facilities the capability for an emergency override alert whereby the City or other governmental unit in times of crises may be able to introduce a bulletin on all channels simultaneously.

4. Liability. The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, except for damage caused to the Company's facilities by the negligence of the City's employees while they are conducting city business and damages shall be limited to the cost of repairs or replacement. The City shall not be liable for the interruption of service by actions of city employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.

5. No Property Right. Nothing in this chapter shall grant to the Company any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any fashion other than in the City's judgment its own business or needs may require.

6. Construction Approval by City. Except for individual service drops, the Company shall not commence construction of any part of system without the prior approval of the City Engineer or designee, which approval shall not be unreasonably withheld. The City has the right to inspect the construction, operation and maintenance of the system to insure adherence to the terms of this chapter and rules and regulations promulgated pursuant to this chapter.

7. Correction of Defects. In the event the Company should violate any of the terms of this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, or if the Company becomes insolvent, unable or unwilling to pay its debts or is judged as bankrupt, or attempts to or does practice any fraudulent or deceitful practice in its conduct or relations under the franchise with the City or subscribers or potential subscribers, the City shall give to the Company thirty (30) days' written notice, the Company may be subject to cancellation of the franchise, and after the expiration of an additional thirty-day written notice of cancellation from the City to the Company, the Company's franchise, and its right to operate thereunder in the City shall stand forfeited and canceled. Notice shall be by certified mail.

8. Franchise Right. The City hereby expressly reserves the right to grant additional franchises within the City to other persons for the conduct of other cable television systems under any conditions acceptable to the City, notwithstanding that they might be alleged to be more favorable than the rights granted herein.

113.20 PAYMENTS TO THE CITY. The Company shall make payments to the City pursuant to the following:

1. Amount. The Company shall pay to the City five percent (5%) of all the gross revenues. At the close of the Company's fiscal year, an annual report shall be provided to the Council detailing all gross revenues received by the Company and indicating its source. The City reserves the right to require additional information detailing properties and expenses relative to the Company's services within the City for the year. If the FCC requirements change during the term of the franchise, the City reserves the right to increase the 5% payment to the City in accordance with FCC regulations.
2. Manner of Payment. All payments to the City shall be made monthly and are due forty-five (45) days after the close of the period. For determining time of payments, the City's fiscal year is July 1 through June 30.

113.21 RECORDS. The Company may keep full, true, accurate and current books of account, which books and records, and all other pertinent books, records, maps, plans, financial statements and other like materials, shall be made available for inspection and copying by the City upon reasonable notice and during normal business hours. The City may audit books and records, from time to time, and may require the Company, not more than once a year to furnish the City a copy of an audit at the Company's expense from an independent auditor, and such other FCC reports as the City may desire. The City shall keep all records of the Company confidential.

113.22 SUBSCRIBER RATES AND CHARGES. The rates charged by the Company for basic service be fair and reasonable and not to exceed the metropolitan area rates for the same service. Although approval is not required for a change in basic rates, the Company will provide the City and the Company's subscribers notice prior to any rate adjustment.

113.23 LOCAL OFFICE; COMPLAINT PROCEDURES. The following complaint procedures shall be established:

1. Local Office. The Company shall maintain within the City a local business office or agent for the purpose of receiving and resolving all subscriber complaints. The provisions of this section shall be complied with if the Company maintains a local business headquarters office staff of adequate personnel no more than three miles from the corporate limits of the City, which office may be reached by local, toll-free telephone call, and provides the City with a name, address, and published phone number of the person who will act as the Company's agent to receive complaints. The local office shall be open during all regular business hours, having a publicly listed telephone, and shall be so operated that complaints and requests for repairs or adjustments may be received on a 24 hour basis. Complaints from subscribers shall be investigated and corrected as soon as possible, but at least within three business days of their receipt. The Company shall maintain a service log which will indicate the nature of each complaint, and the name and address of the complainant and a description of the action taken by the Company and time and date of the action taken.

2. Procedures Established. The Company shall establish procedures for receiving, acting upon, and resolving subscriber complaints to the satisfaction of the Council. The Company shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system and of any changes thereto at the time the changes are enacted. The Company shall require its employees or representatives to wear proper identification at all times. The City designates the Clerk or the Clerk's designee as the officer responsible for the continuing administration of the franchise, and the implementation of complaint procedures.

3. Written Complaints Filed With City and Company. Complaints by any person as to the operation of the cable television system may be filed in writing with the Clerk and the Company. The Clerk shall be notified by the Company within thirty (30) days after receiving the complaint as to the disposition of the complaint with action taken being described. Within the time prescribed by the City, the Company shall resolve the complaint or advise the City of its refusal or inability to do so.

113.24 PROTECTION OF PRIVACY. Rights of privacy shall be protected as follows:

1. Transmission From Subscriber's Premises. The Company shall not permit the transmission of any signal, aural, visual or digital,

including polling the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber.

2. Special Equipment. The Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

3. Unauthorized Reception. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the system for the purpose of taking, receiving television signals, radio signals, pictures, programs, or sound.

4. Reception Without Payment. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the system for the purpose of receiving or transmitting any television signal, radio signal, picture, program or sound, without payment to the owner of the system.

5. Penalty. Any person violating or failing to comply with any of the provisions of this section of this chapter is guilty of a misdemeanor.

6. Subscriber Lists. The Company shall not sell or in any other manner, except in the context of its own business intent, make available the Company's subscribers lists to any person, firm or corporation except to governmental bodies or by court order.

113.25 ADDITIONAL REGULATIONS. The City reserves the right to adopt, in addition to the provisions contained in this chapter, any additional rules or regulations as it shall find necessary in the exercise of its police power.

113.26 PENALTIES. Should the Company, its successors or assigns, violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant thereto, and should such violation continue for more than thirty (30) days after the City has given written notice of the violation, failure or default, the same shall be cause for the forfeiture or revocation of this franchise and the termination of all rights hereunder; provided, however, any delay in correcting the violation which is caused by factors beyond the control of the Company, shall not be included in computing the length of the continuance of the violation. The authorized designee of City Council may make written demand that the Company do or comply with any such provision, rules, order or determination. If the violation by the Company continues for a period of thirty (30) days following such written demand

without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City attorney shall cause to be served upon the Company at least ten (10) days prior to the date of such Council meeting, a written notice of intent to request such termination and the time and place of the meeting, notice of which shall be published at least ten (10) days before such meeting. The Council shall consider the request of the City Attorney and shall hear any person interested therein and shall determine in its discretion, whether or not any violation by the Company was with just cause. If such violation by the Company is found to have been with just cause, the Council shall direct the Company to comply therewith within such time and manner and upon such terms and conditions as are just and reasonable. If the Council shall determine such violation by the Company was without just cause, then the Council may, by resolution, declare that the franchise of the Company shall be terminated and forfeited unless there be compliance by the Company within such period as the Council may fix.

113.27 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service the Company may offer optional pay cable services. The Company shall not program or in any way display X-rated motion pictures as defined by the Motion Picture Association of America either as part of its basic cable or services.

113.28 EMPLOYMENT REQUIREMENT. The Company shall not refuse to hire, discharge from employment, or discrimination against any person regarding compensation, terms, conditions, or privileges of employment because of sex, race, color, creed, handicap, age, or national origin.

113.29 SCHEDULED RE-EVALUATION. The City and the Company shall hold scheduled re-evaluation sessions within thirty (30) days of the fifth and tenth anniversary dates of the effective date of the franchise. All such re-evaluation sessions shall be open to the public and announced in a newspaper of general circulation at least five (5) days before each session. Special re-evaluation may be held at any time during the term of the franchise, provided that both the City and the Company shall mutually agree upon the time, and place of the topics to be negotiated. All such re-evaluation sessions shall be open to the public and announced in a newspaper of general circulation at least five (5) days before each session. The following topics may be discussed at each scheduled re-evaluation session: service rate structures, free or disconnected services; application or new technology; system performances; services provided; programming offered; customer complaints; privacy and human rights; amendments to this ordinance; underground progress; and judicial and FCC rulings. Topics in addition to these listed above may be added

if agreed upon by both parties, or by presenting a petition. If such a petition bears the valid signatures of fifty or more qualified electors of the City, the proposed topic or topics shall be added to the list of topics to be discussed at the re-evaluation session.

113.30 CHANGES AND AMENDMENTS. The Council reserves the right to change or amend this chapter at any time during the term of the franchise. This right would be used in good faith.

113.31 BINDING ON COMPANY. The provisions, terms, and conditions of this chapter shall be binding upon the Company and its successors, heirs, and assigns upon acceptance hereof by the Company.

113.32 ACCESS REQUIREMENTS. For purposes of providing minimal provisions for access, the Company shall meet the requirements of all FCC rules which are in effect.

113.33 PAYMENT STATION AND COMPANY ACCOUNTS. During the term of the franchise, the Company shall maintain a station for payment of all user accounts, located within the City. In addition, during the term of the franchise, the Company shall maintain its active checking and/or savings accounts in financial institutions located within the Hiawatha-Cedar Rapids-Marion metropolitan area and shall make all initial deposits of gross revenue into one or more of said accounts.

EDITOR'S NOTE

Ordinance No. 304 adopting a cable television franchise for the City was passed and adopted on January 6, 1993.

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CHAPTER 114

CABLE COMMUNICATIONS FRANCHISE AND REGULATIONS

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114.01 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words and derivations have the meanings given herein.

1. “Cable service” means the transmission to subscribers of video programming or other programming sources, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.
2. “Cable television system” or “System” means that portion of any communication system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party, and distributes such signals and programming by wire, cable or other means to persons who subscribe to such service.
3. “Company” is McLeodUSA Telecommunications Services, Inc., dba McLeodUSA ATS, an Iowa corporation maintaining its offices in Cedar Rapids, Iowa, the grantee of rights under the regulatory ordinance codified herein, and its lawful successors and assigns. “Company” may also be referred to as “Grantee.”
4. “Federal Communications Commission” or “FCC” means that Federal agency constituted by the Communications Act of 1934 as amended.

5. “Gross revenues” means all revenue derived or produced from or in connection with or related to, directly or indirectly, the provision of Cable Service via the system within the City by the Company or its affiliates, subsidiaries, parents, or any person which the Company has a financial interest from or in connection with the operation of the system within the City with no deductions whatsoever. However, “gross revenues” shall not include any revenues the Company derives from telecommunications services.

6. “Normal operating condition” means those service conditions which are within the control of the Company. Those conditions which are not within the control of the Company include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions, and reasonable periods of time after the occurrence of the event causing such conditions. Those conditions which are ordinarily within the control of the Company include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

7. “Person” is any person, firm, partnership, association, corporation, company, or organization of any kind.

8. “Plant mile” means a linear mile measured on the ground where wire, cable or other means is hung on strand or buried underground.

9. “Service interruption” means the loss of picture or sound on one or more cable channels, or unreasonable degradation of the aural or video signal to the extent programming on the channel cannot be viewed or heard by a subscriber.

10. “Standard installation of cable services” means an installation of equipment and other materials necessary in order to provide cable service, where the surface distance from the Company’s distribution line to the nearest exterior point of the structure for which the installation has been ordered is 125 feet or less.

114.02 QUALIFICATIONS OF GRANTEE AND GRANT OF AUTHORITY.

The regulatory ordinance codified in this chapter, which grants to the Company the nonexclusive right to construct, operate and maintain a cable television system in the City, was passed and adopted by the Council after a public

proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the Company. Therefore, the City hereby grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, along, across, above, and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth. The franchise granted herein shall not excuse the Company from complying with any other regulatory ordinances of the City, including without limitation, any telecommunications ordinance subsequently adopted by the City, and shall not be deemed to have granted the Company a franchise for telecommunications services.

114.03 FRANCHISE TERM. The franchise granted the Company herein shall commence upon the effective date of Ordinance No. 451 as provided for by law, acceptance in writing of the terms and conditions of such ordinance by the Company, approval of the voters at the special election called to consider this matter, canvass of the election, and payment of the costs incurred in holding the election including the costs of the Notice of Election, and shall terminate on January 6, 2008. The Company shall notify the City at least 3 years prior to the expiration of its franchise as to whether or not the Company intends to seek a franchise renewal. The Council, upon notification by the Company of its intention to seek franchise renewal, shall follow all procedures of law effective and applicable at that time.

114.04 COMPLIANCE WITH LAWS, REGULATIONS AND ORDINANCES. The Company shall, at all times during the life of the regulatory ordinance, be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the

National Building and Electric Code and National Electric Safety Code as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other codes, ordinances, rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City, or other agency of the State of Iowa or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized herein.

114.05 LIABILITY AND INDEMNIFICATION. The Company shall indemnify the City for, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the Company's representative within 15 days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. Failure to do so shall not relieve the Company of its obligation to the City. The Company further agrees as follows:

1. Company shall carry Worker's Compensation insurance, with statutory limits, and employees liability insurance as required by law.
2. Company shall carry comprehensive general liability and comprehensive automobile liability insurance with bodily injury limits of not less than \$3 million, naming the City as additional insured with separable limits of no less than said amount.
3. Company's Worker's Compensation, comprehensive general liability and comprehensive automobile liability insurance shall be written by an insurance company approved by the City, and Company agrees to furnish City with certified copies of certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless 10 days' prior written notice shall first be given to the City. Where the Company is self-insured, it shall provide the City with documentation proving the viability of its self-insurance program and the size of its risk management fund.
4. Within 30 days after the effective date of the franchise, the Company shall file with the Clerk a performance bond in the amount of \$50,000.00 to be maintained in full amount at all times in a surety company approved by the City as security for the faithful performance by it of all the provisions of the franchise, and compliance with all

orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults under this chapter, and the payment by the Company of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the system. If the Company fails to pay to the City any compensation required pursuant to this chapter within the time fixed herein; or, fails, after 10 days' notice to pay to the City the franchise fee due and unpaid; or, fails to repay to the City, within such 10 days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Company in connection with the franchise; or fails, after 3 days' notice of such failure by the Clerk, to comply with any provisions of this chapter which the Council reasonably determines can be remedied by an expenditure of the security, the City may immediately be entitled to payment, with interest and any penalties, from the bond company, which amount shall be promptly paid by the bond company.

5. Violations. For violations of this chapter the penalties shall be chargeable to performance bond as follows:

A. For failure to obtain prior City approval regarding installation of various parts of the system as provided for in Section 114.15(6): \$100.00 per day

B. For failure to provide data and reports as requested by the Council and as required in Section 114.18: \$50.00 per day.

C. For persistent failure to comply with reasonable recommendations of the Council relating to services as provided for in Section 114.09 and such reasonable requests or recommendations as may be made pursuant to authority granted by this chapter: \$50.00 per day.

D. For failure to restore the cash deposit as required in this section within the specified 30 days, the entire cash deposit remaining (if any) shall be forfeited.

E. In the event that the system fails to meet any FCC performance standards for a full three-month period, Grantee shall pay a penalty equal to 25% of the Company's gross revenues for the period during which the system failed to meet the standards. The City shall notify the Company during the first month of the three-month period that the system has failed to meet performance standards.

6. Resident Company and Agent. All insurance policies and bonds as are required of the Company in this Chapter shall be written by a company or companies authorized and qualified to do business in the State of Iowa. Certificates of all coverage required shall be promptly filed by the Company with the City.

7. Application for Permit. Within 60 days after the effective date of this chapter, the Company shall file with the Federal Communications Commission such request, petition or other application as is then proper to secure from said Federal Communications Commission any and all necessary permits, licenses, waivers, or the like as may be necessary to be secured from said Federal Communications Commission to fully comply with the terms of this chapter. The Company shall concurrently submit same to the City. The Company shall thereafter diligently pursue such application with the Federal Communications Commission and shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from it. The Company shall keep the City advised, from time to time, of the progress of such application.

114.06 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. Upon grant of the franchise to construct and maintain a cable television system in the City, and in furtherance of the Company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County, and Federal officials necessary to cross highways or roads under their respective jurisdictions to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State or Federal Agency may require. The Company shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough, and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition, at Company expense.

2. The Company's system, poles, wires, and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements or public property. However, in the event that the City shall annex further territory as authorized by law, the Company shall extend energized trunk cable to the remaining portions of the City so annexed within a reasonable time acceptable to the Council. If the annexed area is already served by a competing cable company, the Grantee is not required to serve the area unless it is petitioned to do so by the residents of the annexed area at the equivalent of 25 homes per mile. Nothing contained in this section shall preclude the requirements of Section 114.07 of this chapter from being enforced.

3. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located as to cause no interference with the proper use of streets, alleys and other public ways and places, and to cause no interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places. Wherever within the City telephone and electrical cable is underground at the time of installation the Company shall also place the cable television cable underground; and at any time after installation that the telephone and electrical cable is placed underground, the Company shall also at the same time reinstall and place all cable television cable underground.

4. In case of any disturbance of pavement, sidewalk, driveway, ground or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, ground, bushes, planting, and similar items, or surface of any street or alley disturbed, in as good condition as before said work was commenced. The City's Engineer or designee shall approve all requests of the Company in advance, in the case of disturbance of pavement, sidewalk, driveway, ground, or other surfacing. Further, the City Engineer or designee shall approve in advance the time allowed for the Company to disturb pavement, sidewalk driveway, ground or other surfacing.

5. In the event that at any time during the period of the franchise the City shall elect to make any improvement or change it deems proper to make to any street, alley, or other public way, the Company upon reasonable notice by the City, shall remove, relay and relocate its poles,

wires, cables, underground conduits, manholes and other fixtures at its own expense.

6. The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main. The Company shall prior to commencement of any construction of any parts or phases of the system, prepare a plat and construction schedule, which such plat and schedule shall be kept on file by the Company and may be reviewed by the Council or its authorized representative prior to the commencement of any such construction by the Company, at the City's option.

7. The Company shall, on the request of any person holding a building moving permit issued by the City, temporarily promptly raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than 48 hours' advance notice to arrange for such temporary wire changes.

8. The Company shall have the authority to trim trees upon or overhanging any streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company. All trimming shall be done under the supervision and direction and with the approval of the City Building Official or designee. All trimming authorized by this chapter shall be done at the expense of the Company.

9. The Company shall provide upon request and without installation charge or any type of continuing use charge or fee, service to any municipal building owned or leased and operated by the City. This shall mean only an energized cable to such building. The cost of any internal wiring shall not be the expense of the Company.

10. The Company shall provide upon request and without installation charge or any type of continuing use charge, service to any public or parochial elementary or secondary school buildings, to any non-profit higher education building, to any buildings of private or public non-profit facilities licensed by the State of Iowa as hospitals, and any other non-profit public educational agencies. This shall mean an energized cable to such building. The cost of any internal wiring shall not be borne by the Company. The Company shall have the authority to enforce signal leakage standards established in the Federal Cable Act.

11. The Company shall provide upon request and without installation charge or any type of continuing use charge or fee, service to those agency locations listed in subsections 9 and 10 who demonstrate the capabilities to utilize channels on the cable system for the dissemination of educational information either for classroom instruction or in-home use including the necessary hardware and modulators, excluding production equipment, required to feed a signal back to the headend of origination of program. Five modulators shall be provided at no cost for origination by agencies listed in subsections 9 and 10 above. The Company shall provide modulators at a reasonable cost should the need for said modulators exceed the 5 provided by the Company as outlined in this subsection.

12. Any public or parochial school, any non-profit higher educational institutions, any buildings of private or public non-profit facilities, licensed by the State of Iowa as hospitals, any other non-profit public educational agencies and any municipal buildings owned or leased and operated by the City shall be allowed to purchase converters from the Company at a reasonable cost, or from any other source provided such converters comply with technical specifications established by the Company. If the converters are provided by the institution either by purchase from the Company or from another source meeting technical specifications, then the same shall be maintained by the institution or agency without any monthly charge by the Company. If the Company provides the converter, then it shall be the responsibility of the Company to maintain the converter.

13. The Company shall provide upon request to any public or parochial high school, or the Grant Wood Educational Agency access to the Iowa Communications Network. This access shall be provided without installation charge or any type of continuing use charge or fee. The Company will build a locally switched network that may include the use of diverse routing for reliability purposes. This network shall meet all the specifications set forth by the State of Iowa as it relates to the construction of "phase 3" of the Iowa Communications Network. The Company will only be required to honor those requests that have secured the funding to equip a classroom for interactive teaching as provided by the State of Iowa.

114.07 LINE EXTENSIONS.

1. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of potential subscribers, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically non-compensatory as approved by the Council. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and non-discriminatory policy governing extensions of cable service within the City, the Company shall extend service to new subscribers, at the approved installation charge and monthly rate for customers of that classification, where there are platted subdivisions within the City.

2. In the event the standards of subsection 1 are not met, extensions of service shall be required only on a basis which is reasonable and compensatory as shall be determined by the Council. In any individual case where it can be shown that it is unreasonable and noncompensatory to extend cable, it shall be an option of the City to request the Company and the property owners to agree on a sharing of the costs of the extension of the cable and that as future subscribers use the extended line, reimbursement be made to the original parties. In the event the owner and Company are unable to agree, the City at its option may require that the Company enter into arbitration in the same manner and to the same extent as if the City were party to the dispute.

3. Whenever the Company desires to exclude an area of the City from service by reason of the provisions of subsection 1 above, it shall so advise the Council and the Council shall set a public hearing and provide for the publication of notice at the cost of the Company and at the public hearing the persons who may be affected by the lack of said service shall have the opportunity to appear and be heard. This provision shall apply to the initial construction of the system if any portion of the City is not to be included in the initial construction of the system.

114.08 COMPLIANCE WITH STANDARDS. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code and such applicable ordinances and regulations set forth by the City and/or any other local, State or Federal agencies, including all amendments.

114.09 COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions subject to approval of the Council governing its obligations under this chapter,

and to assure an uninterrupted service to each and all of its customers, provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of Federal and State laws, and City ordinances or rules and regulations of the City. The Company shall not create rules and regulations that preclude the subscriber from having an outside antenna system and antenna switch device. The Company may publish a list of acceptable switch devices and make said list available to its subscribers. The Company is responsible for maintenance of switch devices furnished by itself, but not if furnished by a source other than the Company.

114.10 APPROVAL OF TRANSFER.

1. No transfer of control of the cable system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance of any other form of disposition, without prior notice to and approval by the Council which shall not be unreasonably refused. The notice shall include full identifying particulars of the proposed transaction, and the Council shall act by resolution, or disapprove a transfer of control; if no action is taken within sixty days, approval shall be deemed to have been given.
2. The consent or approval of the Council to any assignment, lease, transfer, sub-lease, or mortgage of the Company shall not constitute a waiver or release of the rights of the City in and to the streets.
3. For the purposes of this section the term “control” is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.
4. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 10 percent of the voting shares of the Company.
5. A mortgage or pledge of the cable system equipment or any part thereof or a leasing by a Company from another person of said cable system equipment or part thereof for financing purposes or otherwise shall be made only with the prior approval of the Council and shall be subject and subordinate to the rights of the City under this chapter or applicable law.
6. The Company shall give the City written notice of any sale, lease, or transfer of any kind of more than 5% of the voting shares of the Company. Upon such notice, the City may require the Company to produce for its examination any documents or books of account relating to the condition of the Company.

114.11 COMPLIANCE WITH FCC RULES AND REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV System and signal carriage therein.

114.12 CHANNEL CAPACITY, ACCESS AND PICTURE QUALITY. The cable television system shall:

1. Upon construction, have an 80 channel capability and a technical capacity for return or two-way communications. The Company shall construct the system with fiber optic cable wherever feasible. There shall be no diminution, a lessening of the mix, level or quality of services due to such expansion or any other implementation of any technological advancement. The Company will install and maintain a cable television system in keeping with latest state-of the-art technology including the capability for satellite reception.
2. Provide 1 channel, without charge, for exclusive use of the City. This channel may be shared with other services with the understanding that the City has first priority on its usage.
3. Provide at least 1 channel without charge for those educational uses as now or hereafter required by the Federal Communications Commission.
4. Provide at least 1 channel for those public access uses as now or hereafter required by the Federal Communications Commission. To the extent time is available, access channels may also be used for other broadcast and nonbroadcast services.
5. Include the following to be provided by the Company:
 - A. The Company shall provide \$110,000.00, plus any additional funding reasonably required, to establish a video production unit or such other substantially similar project or units as may be agreed upon by the City and the Company. This unit will be capable of broadcasting live remote programming, outfitted with all the equipment needed to produce live and/or taped productions. The video production unit will be staffed with personnel adequate to enable the Company to fulfill this agreement.
 - B. The Company will provide the City with 35 hours of production time per month. Twenty-three hours will be allocated for coverage of Council meetings. Twelve hours will be allocated

for other productions. However, if the Council meetings do not require 23 hours of production time per month, the remainder can be applied to other productions. If Council meeting coverage takes more than 23 hours per month, the Company will absorb that overage. If the City does not use all of its production time in a given month, those hours may be carried over to the next month. No more than 15 hours of production time can be carried over from one calendar year to the next. The Company will give the City additional production time as it becomes available. This production time may also be allocated for any other purposes as may be agreed upon by the City and the Company.

C. The Company will contribute up to \$1,000.00 to Kirkwood Community College on an annual basis in exchange for the production for the City of as many video programs as the Kirkwood Communications Media and Public Relations Program curriculum allows.

D. The Company will broadcast City information of interest to citizens on the Government Access Channel. The City will provide the information to the Company in an electronic format until it can be delivered electronically.

6. Be capable of passing standard color television signals without the introduction of material degradation of color fidelity and intelligence from the headend input to the subscriber's television receiver.

114.13 ACCESS REQUIREMENTS. For purposes of providing minimal provisions for access, the Company shall meet the requirements of all FCC rules which are in effect, and whether or not such rules are in effect, shall regardless meet the requirements of the provisions set forth in the Television Franchise Acceptance Agreement, attached to Ordinance 451 as Exhibit A.

114.14 PUBLICATION COSTS. The Company shall assume the costs of the publication of this chapter. A bill for publication costs shall be presented to the Company by the appropriate City officials upon the Company's filing of its acceptance of this chapter and the said publication costs shall be paid at that time by the Company.

114.15 CITY RIGHTS.

1. City Rules. The right is hereby reserved to the City to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the

exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted, and shall not be in conflict with the applicable laws of the State of Iowa or the United States.

2. Use of System by City. The City shall have the right during the life of this chapter, of maintaining upon the poles or in the underground conduits of the Company within the City limits wire and fixtures necessary for a traffic signal control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all the reasonable rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and wires and fixtures used by the City without cost to the City. The City shall also have the right to lease spectrum space from the Company for these purposes at reasonable rates subject to the technical capability of the cable system.

3. Emergency or Disaster. In the case of any emergency or disaster declared by the Mayor, the Company shall, upon the request of the Mayor, make available its facilities to the City for emergency use during the emergency or disaster period. The Company shall, at its expense, provide the Mayor's office with the emergency override equipment activated by phone lock-out, or any other feasible method or methods.

4. Liability. The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, except for damage caused to the Company's facilities by the negligence of the City's employees while they are conducting City business. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.

5. No Property Right. Nothing in this chapter shall grant to the Company any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any fashion other than in the City's judgment its own business or needs may require.

[The next page is 524.1]

6. Construction Approval by City. Except for individual service drops, the Company shall not erect any pole, install any underground lines or conduit, run any line, make any attachment, nor shall any construction of any kind be commenced without the prior approval of the City Engineer or designee, which approval shall not be unreasonably withheld, and the City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this chapter.

7. Correction of Defects. In the event the Company should violate any terms of this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the City shall immediately give to the Company 30 days' written notice to correct such violation, and in the event the Company does not make such correction within 30 days from the receipt of such written notice, the Company shall then be subject to cancellation of the franchise, and after the expiration of an additional thirty-day written notice of cancellation from the City to the Company, the Company's franchise, and its right to operate thereunder in the City shall stand forfeited and canceled.

8. Franchise Right. The City hereby expressly reserves the right to grant additional franchises within the City to other persons for the conduct of other cable television systems under terms no less burdensome nor more favorable than those contained herein.

114.16 ACTIVITIES PROHIBITED.

1. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

2. The Company may, as to rates, charges, service facilities, rules or regulations, grant preference or advantage to any person without prior approval of the Council. Nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules.

3. The Company may assess a monetary penalty against a system user as a result of failure to pay a user's bill by a specified date. However no subscriber service shall be discontinued without such procedure and hearing as required by law.

4. The Company shall credit all subscriber or system user accounts for any loss of service that exceeds 24 hours. However, the subscriber must notify the Company of the loss of service to receive the credit.

114.17 PAYMENTS TO THE CITY.

1. The Company shall, during each year of operation under this chapter, pay to the City 5% of all the Company system's gross revenues. At the close of the Company's fiscal year, an annual report shall be provided to the Council detailing all revenues received by the Company and indicating the source of said revenues. The City reserves the right to require that additional information be submitted by the Company detailing properties and income relative to the Company's services within the City for such period. If the FCC requirements change during the term of this franchise, the City reserves the right to change this 5% requirement in accordance with FCC regulations.
2. Manner of Payment. All payments as required by the Company to the City shall be made monthly and shall be due 15 days after the close of the period. For determining time of payments, the City's fiscal year is July 1 through June 30.

114.18 RECORDS AND REPORTS. The Company shall keep full, true, accurate and current books of account, which shall be made available for inspection to an auditor appointed by the City upon reasonable notice and during normal business hours. The City may order an audit of books and records, from time to time, and may also require the Company, not more than once each year, to furnish the City a copy of an audit at the Company's expense from an independent auditor.

114.19 SUBSCRIBER RATES AND CHARGES. The City reserves the right to regulate rates, should the Congress of the United States or any court or agency decide to return that power to the cities.

114.20 LOCAL OFFICE; COMPLAINT PROCEDURES; CUSTOMER SERVICE STANDARDS.

1. During the term of the franchise granted in this chapter, and any renewal thereof, the Company shall maintain within the City a local business office or agent for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, and similar matters. The provisions of this section shall be complied with if the Company maintains a local business headquarters office staffed with adequate personnel no more than 10 miles from the corporate limits of

the City, which office may be reached by local, toll free telephone call, and provides the Mayor's Office with the name, address, and phone number of a person who will act as the Company's agent to receive complaints regarding quality of service, equipment malfunctions, and similar matters.

2. The local office service centers shall be open during normal business hours and shall be conveniently located.

3. The Company shall maintain a local, toll free or collect call telephone access line which shall be open 24 hours per day, seven days per week. Trained customer service representatives shall be available to respond to customer telephone inquiries on the telephone access line during normal business hours. After normal business hours, the telephone access line may be answered by an automated response system. All inquiries received by the Company after normal business hours shall be responded to on the following business day. The Company shall comply with the following minimum standards for operation of a telephone access line:

A. During normal operating conditions, the telephone access line shall be answered by a customer service representative and the caller's concerns shall be initially addressed within thirty (30) seconds after a telephone connection is made between the caller and the Company. The thirty-second maximum includes wait time or time spent "holding" for a customer service representative.

B. During normal operating conditions, if, after initially addressing a caller's concerns, the customer representative determines that the call should be transferred to another representative of the Company, the transfer time shall not exceed thirty (30) seconds.

C. During normal operating conditions, callers on the telephone access line shall not receive "busy signals" more than three percent (3%) of the time.

D. During normal operating conditions, the minimum standards set forth in this section shall be met no less than ninety percent (90%) of the time, measured on a monthly basis.

E. If a historical record of subscriber complaints indicates a clear failure of the Company to comply with the minimum standards set forth in this section, then the City may require that

the Company's level of compliance be measured through the use of surveys or any other reliable method chosen by the City.

4. The Company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address, and local telephone numbers of the employee or employees or agent to whom such inquiries or complaints are to be addressed. The Company shall by appropriate means require its employees or representatives to wear proper identification at all times. The City designates a City employee to be responsible for the continuing administration of the franchise and implementation of complaint procedures.

5. The Company shall comply with the following minimum standards regarding installations and repairs:

A. Standard installations of cable service, under normal operating conditions shall be completed within seven (7) days of the date ordered by the customer.

B. The Company shall commence repairs on service interruptions promptly, but no longer than twenty-four (24) hours after the service interruption becomes known to the Company.

C. All other repairs, maintenance or installations shall be commenced by the end of the following business day after the Company has been notified of a problem.

D. The Company may not cancel an appointment with a customer after the close of the business day prior to the date of a scheduled appointment. If the Company representative is running late for a scheduled appointment with a customer and will not be able to keep the appointment as scheduled, the customer shall be contacted. When contacted, the appointment shall be rescheduled, as necessary, at a time that is convenient for the customer.

E. During normal operating conditions, the Company shall meet or exceed the minimum standards set forth in this section ninety-five percent (95%) of the time, measured on a monthly basis.

6. The Company shall provide the written information itemized below to all new customers. Such information shall also be provided at least once per year to all existing customers and shall be provided upon request of any customer. During normal operating conditions, customers

shall be notified at least thirty (30) days in advance of any changes to the information provided below. The following written information shall be provided:

- A. An explanation of all programming services, products and other services offered by the Company;
- B. An explanation of all prices and options for programming services, products and other services offered by the Company;
- C. An explanation of all installation, repair and maintenance policies;
- D. Instructions on how to use all programming services, cable related equipment and 'all other products and services, including but not limited to instructions on how to use cable services with VCR's and converters;
- E. An explanation of all channel positions and corresponding programming on the cable system; and
- F. An explanation of all billing and service complaint procedures and policies. Such information shall, at a minimum, explain the procedures for lodging a complaint with the Company and the procedures to be followed by the Company in investigating and resolving disputes.

The Company also shall immediately notify customers in writing and through announcements over the cable system of any changes in rates, programming services or channel positions. During normal operating conditions, such notice shall be provided to customers a minimum of thirty (30) days in advance of the implementation of such changes.

- 7. Customer invoices for cable service and any other products or other services provided by the Company shall be clear, concise and understandable. Invoices shall be fully itemized, including separate lines for basic and premium service charges, equipment charges, optional charges, refunds, rebates, credits and any other activity occurring on a customer's account during the invoice period.
- 8. The Company shall respond to written complaints regarding billing disputes from customers within thirty (30) days.
- 9. Refund checks shall be issued promptly, but no later than either: (a) the customer's next billing cycle following resolution of a dispute or request; or (b) thirty (30) days, whichever is earlier. If cable service is terminated, the Company need not make refunds until all equipment

owned and supplied by the Company is returned. Credits for cable service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

114.21 PROTECTION OF PRIVACY.

1. Except to the extent allowed by Federal law for the purpose of investigation and uncovering of theft of premium channels, Grantee shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber.
2. The Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals, without first obtaining written permission of the subscriber.
3. It is unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within the City for the purpose of enabling himself/herself or others to take or receive television signals, radio signals, pictures, programs or sounds, without payment to the owner of said system.
4. Any person violating or failing to comply with any of the provisions of this section shall be guilty of a misdemeanor and each day of violation or failure to comply shall constitute a separate offense.
5. The Company shall follow subscriber privacy regulations established by the FCC in the Federal Cable Act.

114.22 PERFORMANCE EVALUATION SESSIONS.

1. Special Reevaluation Sessions. Special reevaluation sessions may be held at any time during the term of the franchise granted in this chapter, provided that both the City and the Company shall mutually agree on the time, the place and the topics to be negotiated. All such reevaluation sessions shall be open to the public and announced in a newspaper of general circulation no less than 4 and no more than 20 days before each session.
2. Topics to be Evaluated. The following topics shall be discussed at every scheduled reevaluation session and shall include but not be limited to: application of new technologies; system performances; services provided; programming offered; customer complaints; privacy and

human rights; amendments to this chapter; undergrounding progress; and Judicial and FCC rulings.

114.23 CITY RIGHTS TO PURCHASE SYSTEM AND CONTINUITY OF SERVICE.

1. City Purchase of System upon Revocation. In the event that the City terminates the franchise pursuant to appropriate provisions of this chapter, the City shall have the right to purchase the cable system at a price not to exceed its then fair market value. The fair market value shall be determined by the City in accordance with generally accepted appraisal and accounting principles. Under no circumstances shall any valuation be made for "good will" or any right or privilege granted by this chapter.
2. City Purchase of System upon Expiration. The City shall have the right to purchase the cable system if the franchise is terminated at the end of the franchise term. Should the City decide to purchase the system, it shall do so at a price not to exceed its then fair market value. In determining the fair market value of the system, the original cost of all tangible and intangible property, as well as the salvage value, the book value, the replacement cost, cash flow, and other factors may be considered.
3. The Council reserves the right to review the purchase price of any transfer or assignment of the system, and any assignee to this chapter expressly agrees that any negotiated sale value which the Council deems unreasonable will not be considered in the rate base for any subsequent request for rate increases. Reasonableness of purchase price will be determined in accordance with criteria listed in subsections 1 and 2 applying wherever a sale occurs following revocation; subsection 2 applying whenever the system is sold under any other circumstances.
4. Continuity of Service Mandatory. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Company are honored. In the event that the Company elects to overbuild, rebuild, modify, or sell the system, or the City terminates or fails to renew the franchise granted in this chapter, or the City elects to purchase the system, the Company shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of circumstances. In the event of purchase by the City, or a change of Company, the current Company shall cooperate with the City to operate the system for a temporary period in maintaining continuity of service to all subscribers.

5. At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided herein, the City shall have the right to require the Company to remove at its own expense all portions of the cable television system from all streets within the City.

114.24 OFFER OF CONVERTERS. The Company has offered to provide converters, and the City by adoption of the ordinance codified in this chapter accepts such offer, and by the terms of such ordinance the Company is herewith required to provide such converters.

114.25 SYSTEM TESTING. The Company shall promptly file with the City copies of all system testings either required by the FCC, or, filed with the FCC. Such copies shall be filed with the Clerk within 14 days either of the completion of such testing procedures or of filing the same with the FCC.

114.26 ADDITIONAL REGULATIONS. The City reserves the right to adopt, in addition to the provisions contained in this chapter, such additional regulations as it shall find necessary in the exercise of its police power; provided, however, that such regulations are reasonable and not materially in conflict with the privileges granted in this chapter. However, notwithstanding and in addition to the foregoing, the City shall retain the right to amend this chapter, including regulation of rates, to correspond with changes in State, local, or Federal statutes and administrative rules and regulations. This provision will be exercised in good faith by the Council.

114.27 PENALTIES. Should the Company, its successors or assigns, violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant hereto, and should such violation continue for more than 30 days after the City has given the Company written notice of such violation, failure or default, the same shall be cause for the forfeiture or revocation of this chapter and the termination of all rights hereunder, provided, however, any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the length of the continuance of such violations. In the event of the bankruptcy or receivership of the Company, all rights herein given to the Company shall, at the option of the City, be forfeited and terminated.

114.28 PROGRAM CONTENT RESTRICTIONS.

1. In addition to providing basic cable television service consisting of broadcast, locally originated, access, and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis (pay cable). The Company shall not, however,

program or in any way display any programming that violates applicable obscenity laws.

2. Among the Company's offered programming services shall be an option that would allow a subscriber to purchase a limited basic service consisting of: some or all locally receivable broadcasts, PBS, all access channels, all C-span channels, a preview guide and their successors.

3. The Company shall not charge a subscriber for any programming services without the subscriber's prior consent to receive and pay for such programming.

114.29 EMPLOYMENT REQUIREMENT. The Grantee shall not refuse to hire, nor discharge from employment, nor discriminate against any person regarding compensation, terms, conditions, or privileges of employment because of sex, race, color, creed, handicap, age, or national origin. The Company shall submit a copy of its affirmative action program to the City within 30 days subsequent to the effective date of the ordinance codified in this chapter, and at least annually thereafter during the term of the franchise.

114.30 CHANGES IN ORDINANCE. The Council reserves the right to change or amend this chapter at any time during the term of the franchise. This provision will be exercised in good faith by the Council.

114.31 BINDING ON COMPANY. The provisions, terms, and conditions of this chapter shall be binding upon the Company, successors, heirs, and assigns upon acceptance hereof by the Company.

114.32 SERVICES TO HANDICAPPED. The Company shall make every reasonable good-faith effort to provide services to handicapped individuals as is reasonably possible employing the latest state-of-the-art techniques and equipment.

114.33 RESOLUTION OF DISPUTES. It is the intent of the City to provide for the orderly resolution of any controversy or dispute between the Company and the City arising out of the enforcement or interpretation of any section or provision of this chapter, or any rule, regulation or procedure relating to cable communications matters. Fact finding and mediation shall be the means of resolving the great majority of such controversies or disputes. Only those matters specifically designated as arbitrable may be submitted to that process for binding resolution. None of these methods, however, shall be the first resort of the parties, but shall be undertaken only after reasonable time and full effort to reach agreement by negotiation. Any controversy or dispute, upon

the election of either the Company or the City, shall be submitted to an expert individual acceptable to both parties for an investigation of the facts and a report thereof. Such fact finding shall be for the purpose of developing better information for the use of both parties and shall not be binding upon either party. All fees or other expenses resulting from such fact finding shall be borne equally by the Company and the City. Any controversy or dispute, upon the election of either the Company or the City, shall be submitted to an expert individual, acceptable to both the Company and the City for the purpose of facilitating discussion and receiving new perspectives on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All fees and other expenses resulting from mediation shall be equally borne by the Company and the City. Only those matters which are expressly arbitrable under the provisions of this chapter may be submitted to arbitration which includes only the purchase price of the system by the City upon expiration or revocation. Arbitrable matters may be submitted to a single expert individual, if both parties agree to do so. Otherwise, arbitrable matters shall be submitted to a three-member expert panel. Arbitration shall be binding on both parties. Arbitrated matters shall be held to have been adjudicated and settled, and not open, either directly or indirectly, for review pursuant to the provision of the rules and procedures of the American Arbitration Association. All fees or other expenses resulting from such arbitration shall be paid by the Company and the City as hereinafter provided. In the case of fact finding and mediation, both parties shall present a maximum total of three names each for possible service as experts. If there is no agreement on any of the names, a judge of competent jurisdiction shall select a person to fulfill the function of expert. In the case of arbitration, both parties shall agree upon the number of persons to serve on the arbitration panel. Such number shall be either one or three. If a single member panel is agreed upon, both parties shall name jointly the person, utilizing the procedures established for fact finding and mediation. If a three-member panel is agreed upon, one person shall be named by the City, one shall be named by the Company, and a third person shall be named by agreement between the Company and the City. The third person shall serve as the presiding officer of the panel. If there is no agreement on the single arbitrator or the presiding officer of the three-member panel, the procedure established for fact finding and mediation shall be followed. The fees of single experts and arbitrators shall be equally borne by the Company and the City. The fee of the arbitrator who represents one of the parties shall be borne by that party. The fee of the presiding officer of an arbitration panel shall be equally borne by the Company and the City. The expenses of fact finding and mediation shall be equally borne by the Company and the City. The expenses of arbitration shall be borne as

determined by the arbitration panel in its award of finding, but in no event shall the City be obligated for more than one-half the expense.

EDITOR'S NOTE

Ordinance No. 451 adopting a cable television franchise for the City was passed and adopted on September 2, 1998.

(Chapter 114 added by Ord. 451 – May-99 Supp.)

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CHAPTER 115

UTILITY LINES

115.01 Definition
115.02 Permit Required
115.03 Permit Approval Required
115.04 Burial Required
115.05 Exceptions to Burial
115.06 Fees Established
115.07 Quality Regulation

115.08 Poles, Towers or Structures
115.09 Above Ground Transmission Lines
115.10 Repair and Maintenance of Existing Installations
115.11 Developer Responsibility
115.12 Compliance
115.13 Conflicting Provisions

115.01 DEFINITION. For purposes of this Chapter, "utility lines" shall be defined as any lines placed for purposes of transmitting a public or private utility, including by way of illustration, but not necessarily limited to, electric, gas, telephone, television, fiber optics and other like or similar utilities, whether owned, installed or constructed by the supplier, consumer or any other party. Utility lines shall include those placed either within the City or outside of its corporate limits but within the jurisdiction of the City's platting and subdivision regulations.

(Ord. 812 – Jan. 15 Supp.)

115.02 PERMIT REQUIRED. No person or entity shall install, construct, perform maintenance, reconstruct, or repair any utility lines or associated structures located in the public right-of-way without first obtaining a permit from the City, pursuant to Hiawatha Code of Ordinances § 135.09. No permit shall be issued by the City until the permit applicant has paid any applicable fees required by this Chapter, has executed an agreement to defend, indemnify, and hold the City harmless, has provided a policy of insurance satisfactory to the City Administrator insuring the City against any liability arising out of the work, and has posted the bond required by Hiawatha Code of Ordinances 135.09.

115.03 PERMIT APPROVAL REQUIRED. Plans to place utility lines subsequent to the adoption of the ordinance codified in this chapter, whether new utility lines or utility lines that replace prior utility lines, must be submitted in writing to the Hiawatha Building Department with a completed permit application. The City Engineer, the Community Development Director, the Water Superintendent, and the Public Works Superintendent will review the plans for purposes of determining whether the plans comply with the requirements of this Chapter and will approve or deny the permit application.

115.04 BURIAL REQUIRED.. Except as provided otherwise in this Chapter, utility lines hereafter installed, constructed, or otherwise placed shall

be installed and placed underground. Above ground placement, construction, modification or replacement of meters, gauges, transformers, amplifiers, street lighting and service connection pedestals shall be allowed. All utility lines shall be placed within appropriate easements or dedicated public right-of-ways so as to cause minimum conflict with other underground services.

115.05 EXCEPTIONS TO BURIAL. The following exceptions to the strict applicability of Section 115.04 shall be allowed upon the conditions stated:

1. Above ground placement, construction, modification, replacement or relocation of lines shall be allowed where the City Engineer, Community Development Director, Water Superintendent, and Public Works Superintendent find that:
 - A. Underground placement would place an undue financial burden upon the persons or entities bearing the financial responsibility for the placement of the lines underground; or
 - B. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement; or
 - C. Above ground structures are currently in place upon which placement could be accomplished.
2. Above ground placement of temporary service utility lines shall be allowed:
 - A. During the new construction of any project for a period not to exceed twelve (12) months, provided the construction period can be extended by mutual agreement.
 - B. During any emergency to safeguard lives or property within the City.
 - C. For a period of not more than seven (7) months when soil conditions make excavation impractical.
3. Above ground placement of utility lines in excess of 34 kilovolts shall be allowed.

115.06 FEES ESTABLISHED. In order to recover its costs in managing the public right-of-way, the permit applicant shall pay to the City a management fee established by the City. The fee shall be due and payable at the time of filing the permit application and at the time of filing each proposed amendment to the permit. The following utilities are exempt from the management fee:

1. Any utility or communication system franchised by the City; or

2. Any utility with a certificate of franchise authority issued by the State of Iowa. Exception: This fee exemption does not apply to contractors or subcontractors doing work for exempt franchisees.

(Ord. 812 – Jan. 15 Supp.)

115.07 QUALITY REGULATION. All persons or entities installing, constructing, performing maintenance, reconstructing or repairing any utility lines or associated structures pursuant to a City issued permit agree to perform the work in compliance with all Federal and State laws, all Hiawatha City codes, specification, and ordinances, and the Metro Area Standard Specifications for Public Improvement, 2003 ed. Furthermore, Underground Facilities Information, Iowa Code Chapter 480, is made a part of this policy. The law requires persons excavating to contact the one call system at least forty-eight (48) hours prior to any excavation. Iowa One Call can be reached at 1-800-292-8989 or 811.

115.08 POLES, TOWERS OR STRUCTURES. All poles installed subsequent to the adoption of the ordinance codified in this chapter for the purpose of placement of permitted above ground utility lines shall be composed of laminated materials. All poles, towers or structures installed subsequent to the adoption of such ordinance for the purpose of placement of permitted above ground utility lines shall:

1. Be as tall as practical and reasonably available; and
2. Spaced apart at maximum distances reasonably possible.

115.09 ABOVE GROUND TRANSMISSION LINES. When permitted to place new above ground transmission lines that did not exist at the time the ordinance codified in this Chapter was adopted, only one such above ground transmission line shall be permitted along any roadway, street, avenue or alley. All permitted above ground transmission lines placed after the adoption of such ordinance, whether they are new transmission lines or transmission lines that replace prior transmission lines, must be attached as close to the poles, towers or structures that support the lines as reasonably possible. When new or additional lines are to be placed on existing above ground structures, all persons or entities shall secure in writing the appropriate utility's permission to install on the existing structures and submit that writing to the City before a permit shall be issued.

115.10 REPAIR AND MAINTENANCE OF EXISTING INSTALLATIONS. Nothing in this Chapter shall be construed to prevent repair, maintenance, replacement or modification of existing overhead and underground utility lines and related equipment.

115.11 DEVELOPER RESPONSIBILITY. All persons or entities responsible for complying with the requirements of this chapter shall submit to the City written instruments from the appropriate utility companies showing that all necessary arrangements with said companies for installation of such utility lines have been made.

115.12 COMPLIANCE. Failure to comply with this Chapter may result in the issuance of a stop work order, double permit charges, issuance of a municipal infraction and/or denial of any further excavation permits until a bond or letter of credit is submitted and the City is satisfied that the permit holder will comply with this Chapter.

A failure to complete work may result in the City, after written notice to the permit holder and without any response from the permit holder, performing the necessary work to complete the excavation, including surface restoration, and assessing all costs associated to the permit holder in accordance with the provisions of this Chapter.

115.13 CONFLICTING PROVISIONS. Where the conditions imposed by any provision of this chapter are in conflict with conditions imposed by any other provision of law, code, ordinance, resolution, rule or regulation of any kind, the provisions of this chapter shall govern.

(Chapter 115 - Ord. 762 – Mar. 14 Supp.)

[The next page is 525]

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 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.

(Ord. 562 – Sep. 04 Supp.)

(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. *(Repealed by Ord. 435 - Dec. 97 Supp.)*

6. 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])

7. 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])

8. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

9. 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.

(Code of Iowa, Sec. 123.49 [2d])

10. 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])

11. 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])

12. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2l])

(Ord. 593 – Oct. 06 Supp.)

120.06 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device 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.

(Ord. 562 – Sep. 04 Supp.)

CHAPTER 121

CIGARETTE 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 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, tobacco, tobacco products, cigarettes or vapor products, irrespective of the quantity or amount or the number of sales.
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; snuff flour; cavendish; plug and twist

tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

8. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(Ord. 840 – Oct. 15 Supp.)

121.02 PERMIT REQUIRED. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes or vapor products at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes or vapor products within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor. *(Ord. 840 – Oct. 15 Supp.)*

(Code of Iowa, Sec. 453A.13)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance 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)

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13)

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 Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.
(*Code of Iowa, 453A.13*)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products, cigarettes or vapor products to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes, tobacco products or vapor products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand

five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 840 – Oct. 15 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36 (6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

(Ch. 121 – Ord. 494 – Oct. 00 Supp.)

CHAPTER 122

PUSHCARTS AND VENDORS

122.01 Purpose	122.12 Sale Prohibited
122.02 Definitions	122.13 Cease and Desist
122.03 License and Identification Required	122.14 Nuisance Prohibited
122.04 Application for License	122.15 Revocation of License
122.05 License Fees	122.16 Notice
122.06 Bond & Insurance Required	122.17 Hearing
122.07 License & Identification Badge Issued	122.18 Record and Determination
122.08 Display of License and Identification Badge	122.19 Appeal
122.09 License Not Transferable	122.20 Exemptions
122.10 Time & Location Restriction	122.21 Charitable and Nonprofit Organizations
122.11 Pushcart Restrictions	

122.01 PURPOSE. The purpose of this chapter is to protect the health and safety of City residents and to protect against fraud, unfair competition and intrusion into the privacy of citizens' homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Potentially Hazardous Food" ("PHF") means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. PHFs do not include hard boiled eggs with the shell intact, foods with a pH of 4.6 or below when measured at 75 degrees Fahrenheit, or foods with a water activity value ("aw") of 0.85 or less.
2. "Pushcart" means a non-motorized vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures. A motorized vehicle shall not be considered a pushcart, unless it is a special exception granted to handicapped persons pursuant to 122.11.
3. "Temporary or Intermittent Business" means less than sixty (60) consecutive days.
4. "Vendor" means any person carrying goods, wares, or merchandise or offering services for immediate sale or delivery from house to house or upon the public street; any person who solicits or attempts to solicit from house to house or upon the public street any contribution, donation, raffle, contest or any order for goods, wares, or merchandise to be delivered at a future date; or any person engaged in the temporary or intermittent business of selling and delivering goods, wares, or merchandise. Vendor also includes any person engaged in the sale of non-potentially hazardous foods by pushcart.

122.03 LICENSE AND IDENTIFICATION REQUIRED. Every person engaged in the solicitation, peddling, or sale of goods, wares, merchandise, services, gifts, donations or other items from house to house or upon the public street, and who does not have any indoor place in the City where the same selling, soliciting or peddling of said items and services is done on a continuous and permanent basis or is engaged in the sale of non-potentially hazardous foods by pushcart, shall first obtain and display, in a manner plainly visible, a license and identification badge issued by the City Clerk. Any person engaging in the aforementioned

activities in the City without first obtaining a license and identification badge as herein provided is in violation of this chapter.

Before the City Clerk will issue a license pursuant to this chapter for the operation of a pushcart, all such applicants shall comply with all county, state, and federal regulations, including but not limited to Linn County Health Department regulations.

122.04 APPLICATION FOR LICENSE. All applicants shall file a written application with the City Clerk for a license at least ten (10) days prior to the first day of any activity described in this chapter and each applicant shall be subject to the following application process:

1. All applicants shall provide name, address, date of birth, social security number, height, weight, hair, eye color, phone number, and if applicant does not have a permanent residence in this City, the residence and phone number where the applicant permanently resides. Registration for minor children shall be done by a parent or legal guardian, or by a person bearing the notarized authorization of the child's parent or guardian.
2. Each adult shall produce a photograph-driver's license, or if they have no such license, a passport or other official photographic identification. Minor children's identification shall be any reasonable means that establish the child's identity and the identity of the child's parent or guardian.
3. Persons working for or as a part of a group shall provide the names, addresses and phone numbers for each person and for the person in charge of and responsible for the group.
4. The make, model, year, state of registration and license number of any and all vehicles being used in connection with activities as described by this chapter.
5. List of the products being sold and the price of each. Persons applying for a license to operate a pushcart must provide a statement that all such items offered for sale and consumption are non-potentially hazardous foods, and provide a copy of the applicant's Linn County Health Department license.
6. Name, address and phone number of the supplier of the product.
7. Proof of the state sales tax permit or exemption from state and federal taxing authorities.
8. If employed by or working in association with a corporation, the state of its incorporation, whether it is authorized to do business in Iowa, and evidence that the corporation has designated a resident agent within Iowa upon whom legal service may be made and that the corporation will be responsible for the acts of its employees and or associates in the City.
9. A statement as to whether or not applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance other than a traffic violation, the nature of the offense and the penalty imposed.
10. The last municipalities, not exceeding three, where applicant carried on activities for which license is sought immediately preceding the date of application and the addresses from which such business was conducted in those cities.
11. The proposed location and/or route of every person engaging in activities as described by this chapter.

12. The City will conduct background checks on every person applying for a license to carry out any activities as described in this chapter.

A. A Non-Law Enforcement Record check form must be completed and submitted to the City Clerk to complete this process.

B. Out of state applicants are required to submit to the City Clerk a state wide background check conducted by a law enforcement agency. Online background checks will not be accepted.

13. All completed applications along with all supporting documents as required in this chapter shall be submitted to the Police Department for review, completion of the background check, verification of information provided, and approval.

122.05 LICENSE FEES. Prior to issuing any license and identification badge, all fees shall be paid to the City Clerk.

1. All licenses are issued for one of the following duration periods:

A. One (1) day

B. One week (7 days)

C. Up to six (6) months

D. One (1) year or major part thereof

2. All license and application fees shall be adopted by resolution passed by City Council.

3. Ice cream novelties and concessions will be provided a reduced license fee as adopted by Council resolution. This chapter does not apply to ice cream route delivery persons.

122.06 BOND & INSURANCE REQUIRED. Before a license under this chapter is issued, a non-pushcart applicant shall provide to the City Clerk either: (1) evidence that the applicant has filed a bond with the Secretary of State in a penal sum two times the value of the goods, wares or merchandise to be sold or offered for sale in accordance with chapter 9C.4 of the Code of Iowa; or (2) a \$1,000 bond.

All applicants shall deliver to the Clerk a certificate of insurance prior to the issuance of a license pursuant to this chapter. All applicants shall obtain general liability insurance, including products liability coverage, in the amount of \$300,000 per occurrence and \$100,000 for property damage, and shall name the City and its employees as additional insureds.

122.07 LICENSE & IDENTIFICATION BADGE ISSUED. If the City Clerk finds the application is completed in conformance with the requirements of this chapter, the license and application fees have been paid, and the Police Department has completed the background check, verified the contents of the application, and approved the application, a license and identification badge may be issued. The City will consider factors when determining whether a license under this chapter will be granted or denied, including but not limited to:

1. Whether the proposed activity is likely to cause undue congestion of a public area;

2. Whether the applicant has had complaints for misrepresentation, fraud, or selling defective merchandise;

3. If the applicant has been convicted of a violation of a similar ordinance within the last six (6) months;

4. If the applicant has been convicted within the last five (5) years of any public offense relating to fraud or misrepresentation; and
5. If the proposed activity is likely to cause excessive or unusual noise.
6. If the applicant seeks a license for pushcart activities, the City will consider the nature of the proposed pushcart activity in light of the nature of existing pushcart activities already operating within City limits.

The City Clerk shall either issue the license and identification badge or an explanation of why the application was denied.

The City Clerk shall refuse to register persons who fail to furnish complete or accurate information, and the license shall be invalidated if it is found that false information was provided. The license shall be denied if the applicant has violated this ordinance, or had a license hereunder revoked or invalidated in the past twelve (12) months. Additionally, if the City determines complaints were made or inappropriate business practices occurred in any of the three (3) most recent communities in which the applicant carried on activities as described in this chapter, the license shall be denied.

The identification badge shall be of a distinctive logo and design to show clearly that it has been issued by the City of Hiawatha and shall incorporate a photograph of the registrant taken at the City Clerk's office or where the City Clerk directs, at the time of application. The identification badge shall be valid for the length of time issued on the license.

Applicants who obtain a license and identification badge pursuant to this chapter shall pay such fee as the Hiawatha City Council shall set to cover costs of administration and enforcement of the provisions of this chapter.

122.08 DISPLAY OF LICENSE AND IDENTIFICATION BADGE. Each vendor shall keep such license and identification badge in his or her possession at all times and the identification badge must be worn in plain sight while doing business in the City. Upon the request of prospective customers or law enforcement officers the vendor must exhibit the license as evidence of compliance with all requirements of this chapter.

122.09 LICENSE NOT TRANSFERABLE. Licenses and identification badges issued under the provisions of this chapter are not transferable between vendors in any situation and are applicable only to the applicant to whom the license or badge was issued.

122.10 TIME & LOCATION RESTRICTION. All vendors' licenses shall provide that said license permits activities only between the hours of 8:00 a.m. and 8:00 p.m. A licensee's hours of operation may be adjusted upon the written request of the applicant and approval of the City Clerk. Such adjusted hours shall be indicated on the vendor's license.

Every pushcart operator shall operate only at the location specified in the City license and only during the hours specified on the City license. Pushcarts must be removed from the designated location after the close of the licensee's hours of operation. The City reserves the right to limit the number of pushcarts within City limits. Pushcarts are permitted only in the CPR-1 Zoning District. Applicants may apply in writing for permission to locate outside the CPR-1 Zoning District only for specific events such as local festivals, fairs, or community events. These requests will be considered using the factors listed in 122.07.

122.11 PUSH CART RESTRICTIONS. No pushcart shall have dimensions exceeding 4 feet in width, 8 feet in length, and 8 feet in height. All pushcarts must be aesthetically pleasing in appearance, and shall be maintained in a neat and orderly fashion. Each pushcart

shall be capable of being moved and kept under control by one person traveling on foot. The City may grant a special license to a handicapped person to operate a pushcart propelled by an electric motor, providing that the applicant meets all other conditions for a license.

122.12 SALE PROHIBITED. The sale of all PHFs are prohibited within City limits. No other items, merchandise, goods, or wares—other than non-potentially hazardous foods—may be displayed, offered for sale, or sold by pushcart within City limits.

122.13 CEASE AND DESIST. Law enforcement officers shall give orders to all persons found to be acting in violation of this chapter to halt all activity immediately until further notice or until compliance with this chapter is met. This includes, all persons whether licensed or not licensed, while engaging in activities described in this chapter that enter upon any residential premises in the City where the owner, occupant, or person legally in charge of the premises has posted, at the entry to the premises or at the entry to the principal building on the premises, a sign bearing the words “No Peddlers,” “No Solicitors,” or words of similar import. Failure or refusal to obey such orders shall be punishable as a misdemeanor.

122.14 NUISANCE PROHIBITED. No vendor shall conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life, or property, or act as an obstruction impeding the access of fire, police, sanitation, or emergency personnel or vehicles. The City reserves the right to require the relocation of any licensee to a new location in the event public health, safety or welfare so requires.

122.15 REVOCATION OF LICENSE. The City Clerk shall, after reasonable notice and opportunity for a hearing before City Council, revoke any license issued under this chapter for the following reasons:

1. The licensee, in the application or in the course of conducting his/her licensed activity has made statements constituting a fraudulent practice as defined by the Code of Iowa. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one (1) year from the date of revocation.
2. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. The licensee has conducted the business in such a manner as to endanger the public health, welfare, or safety.

122.16 NOTICE. The City Clerk shall send a notice to the licensee at the address listed in the licensee’s application, not less than ten (10) days before the date set for a hearing on the possible revocation of license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or statutes allegedly violated, and the date, time and place for hearing on the matter.

122.17 HEARING. The City Council shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee or authorized representative fail to appear without good cause, the City Council may proceed to a determination of the complaint.

122.18 RECORD AND DETERMINATION. The City Council shall make and record findings of fact and conclusions of law and shall revoke a license only when upon review of

the entire record the City Council finds clear and convincing evidence of a violation of this chapter or state law.

122.19 APPEAL. If the City Clerk refuses to issue a license, the City Clerk shall make as part of the record the reasons therefore. The licensee or 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 City Clerk by a majority vote of the Council members present and the City Clerk shall carry out the decision of the Council.

122.20 EXEMPTIONS. The provisions of this chapter do not apply in the following cases:

1. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Members of local civic and service clubs, Boy Scouts, Girl Scouts, 4-H Clubs and Future Farmers of America.
3. Local residents and farmers who offer for sale products of their own making or produce of their own raising.
4. Students representing the Cedar Rapids Community School District, adjacent community school districts, and Grant Wood Area Schools conducting projects sponsored by organizations recognized by the school.
5. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Public Safety and Emergency Medical Service personnel and any City employee conducting fundraising and any other activity in association with a charitable or City event.

122.21 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 license fees imposed by this chapter, but are still required to pay the fees for any background checks required by 122.04. All such organizations are required to submit in writing to the City Clerk the 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 City Clerk finds that the organization is a bona fide charity or nonprofit organization and background check results are approved by the Police Department, the City Clerk may issue, free of charge, a license containing the above information to the applicant. In the event the City Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council as provided in this chapter.

(Ch. 122 - Ord. 808 – Jan. 15 Supp.)

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Above Ground 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 method other than upon a properly licensed motor vehicle.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability

insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$100,000 per person; \$300,000 per accident.
2. Property Damage - \$100,000 per accident.

123.06 PERMIT FEE. A permit fee of set by resolution of the Hiawatha City Council shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved. *(Ord. 859 – Jun. 16 Supp.)*

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 ABOVE GROUND WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

PRACTICE OF HEALTH RELATED SCIENCES

124.01 State License Required
124.02 Definition

124.03 Public Health and Safety

124.01 STATE LICENSE REQUIRED. The practice of any health related professions by unlicensed individuals is prohibited. It is unlawful for a person to engage in or offer to engage in the practice of health sciences, or use in connection with the person's name initials, words, or titles that imply or represent that the person practices health sciences, unless that person possesses a license issued by the State of Iowa.

124.02 DEFINITION. "Health related professions" mean medicine and surgery, podiatry, osteopathic medicine and surgery, practice as a physician assistance, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapy assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, dietetics, massage therapy, athletic training, acupuncture, nursing home administration, hearing aid dispensing, sign language interpreting or transliterating, orthotics, prosthetics, pedorthics, or any other occupation requiring licensure under the Iowa Code.

124.03 PUBLIC HEALTH AND SAFETY. The Hiawatha Police Department shall placard, as unsafe for entry, any building where any person has established a practice of any health related profession without a state license and shall keep the premises placarded until a state license has been obtained or some other legal use has been established.

(Ch. 124 - Ord. 754 – Sep. 13 Supp.)

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CHAPTER 125

SURVEILLANCE CAMERAS

125.01 Purpose

125.02 Definitions

125.03 Surveillance Camera Required

125.04 Exemption

125.05 Right of Inspections

125.01 PURPOSE. The purpose of this chapter is to reduce the potential for situations where employees of certain businesses are exposed to potential death and/or injuries because of the actions of people with criminal intent.

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

1. “Business” means an establishment for retail sale of petroleum products and other supplies for motor vehicles, as well as for the retail sale of a variety of other items typically sold in grocery stores or an establishment that provides lodging for paying guests or any other establishment for the sale of products or the provision of services that has at any time between the hours of 8:00 p.m. and 8:00 a.m. only one clerk or employee on duty.
2. “Surveillance camera” means any video type camera or similar video recording device capable of producing a retrievable image on film or tape that can be made a permanent record and that can be enlarged through projection or other means.

125.03 SURVEILLANCE CAMERA REQUIRED. Any business, as defined herein, shall be equipped with a functioning surveillance camera between the hours of 8:00 p.m. and 8:00 a.m. or during the portion of those hours the business is open each day (night) that the business is open. The surveillance camera shall be positioned so as to record on film or videotape the image of all persons entering the business and/or all persons approaching within five feet of the cash register. All proposed installations and positioning of a surveillance camera shall be submitted in advance to the Police Department for determination and approval that the same meets the requirements set out in this chapter.

125.04 EXEMPTION. A business may apply to the Police Chief for exemption from the provisions of this chapter when that business has demonstrated that it is temporarily unable to comply for good cause.

125.05 RIGHT OF INSPECTIONS. Cameras shall be maintained in proper working order and positioned correctly at all times and shall be subject to inspection by the Police Chief or designee.

CHAPTER 126

ELECTRICAL LICENSING CODE

126.01 Purpose and Scope
126.02 Licensing Required

126.03 Violations and Penalties

126.01 PURPOSE AND SCOPE. The purpose of this Chapter is to provide for the examination, qualification, licensing and insuring of electrical contractors, electricians, and residential electricians and the registration of apprentice electricians and apprentice residential electricians, in order to protect the public health, safety and welfare.

126.02 LICENSING REQUIRED. No person shall install, alter, add to, repair, relocate, replace, or maintain any electrical system within the City unless such person is licensed by the State of Iowa, thereby meeting the requirements established by the Iowa Electrical Examining Board, and has obtained a permit for said electrical work from the Building Official according to the provisions Chapter 157 of this Code of Ordinances. Those exempt from this licensure by the State of Iowa shall also be exempt from licensure in the City of Hiawatha.

(Ord. 800 – Jan. 15 Supp.)

126.03 VIOLATIONS AND PENALTIES. Violation of this Chapter is a misdemeanor and punishable as a municipal infraction as provided in Chapter 4 of this Code of Ordinances. Each day in which any said violation is committed, continued or permitted shall be deemed a separate offense.

(Chapter 126 - Ord. 767 – Mar. 14 Supp.)

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CHAPTER 127

PLUMBING LICENSING CODE

127.01 Purpose and Scope
127.02 Licensing Required

127.03 Violations and Penalties

127.01 PURPOSE AND SCOPE. The purpose of this Chapter is to provide for the licensing and bonding of plumbing contractors, and for the licensing of master plumbers and journeymen, in order to protect public health, safety and welfare.

127.02 LICENSING REQUIRED. No person, firm or corporation shall engage in the business of contracting, planning or supervising the installation, alteration, repair, relocation, replacement, addition to or removal of any plumbing system or equipment or portion thereof within the City unless such person, firm, or corporation is licensed and insured as required by the State of Iowa and has obtained a permit for such plumbing work as provided by Chapter 156 of this Code of Ordinances. Those exempt from this licensure by the State of Iowa shall also be exempt from licensure in the City of Hiawatha.

(Ord. 801 – Jan. 15 Supp.)

127.03 VIOLATIONS AND PENALTIES. Violations of this Chapter is a misdemeanor and punishable as a municipal infraction as provided in Chapter 4 of this Code of Ordinances. Each day in which any said violation is committed, continued or permitted shall be deemed a separate offense.

(Chapter 127 - Ord. 768 – Mar. 14 Supp.)

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CHAPTER 128

MECHANICAL LICENSING AGREEMENT

128.01 Purpose and Scope
128.02 Licensing Required

128.03 Violations and Penalties

128.01 PURPOSE AND SCOPE. The purpose of this Chapter is to provide for the examination, qualification and licensing of heating/cooling contractors, refrigeration contractors, comprehensive mechanical contractors, heating/cooling installers, and refrigeration systems installers; and the registration of the respective apprentice installers, in order to protect the public health, safety and welfare.

128.02 LICENSING REQUIRED. No person shall install, alter, add to, repair, relocate, replace, or maintain any mechanical system within the City unless such person is licensed and insured as required by the State of Iowa and has obtained a permit for said mechanical work as provided by Chapter 158 of this Code of Ordinances. Those exempt from this licensure by the State of Iowa shall also be exempt from licensure in the City of Hiawatha.

(Ord. 802 – Jan. 15 Supp.)

128.03 VIOLATIONS AND PENALTIES. Violations of this Chapter shall be punished as a municipal infraction as provided in Chapter 4 of this Code of Ordinances. Each day in which any such violation is committed, continued or permitted shall be deemed a separate offense.

(Chapter 128 - Ord. 769 – Mar. 14 Supp.)

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CHAPTER 129
LICENSING AND EXAMINING BOARD

(Repealed by Ord. 446 – May-99 Supp.)

[The next page is 599]

CHAPTER 130

METRO PIPE LAYER LICENSING CODE

(Repealed by Ord. 804 – Jan. 15 Supp.)

[The next page is 603]

CHAPTER 131

TAXICAB AND LIMOUSINE CODE

131.01 Adoption and Scope	131.09 Information
131.02 Definitions	131.10 No Smoking Allowed
131.03 Taxicab and Limousine Business License	131.11 Rates/Fares
131.04 Vehicle License	131.12 Prohibited Acts
131.05 Condition of the Vehicles	131.13 Solicitation
131.06 Vehicle Inspection Required	131.14 Revocation for Violations and Injunctive Remedy
131.07 Taximeters	131.15 Duty to Carry Orderly Passengers
131.08 City Taxi/Limo Driver's License	131.16 Exceptions

131.01 ADOPTION AND SCOPE. This chapter shall be known as the Hiawatha Taxicab and Limousine Code and shall apply to the operation of taxicab and limousine services originating within the City of Hiawatha.

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

1. “Courier service” means transportation for hire of anything other than human cargo. To run without the taximeter, a courier service must be registered with the Iowa Department of Transportation and have proper IDOT numbers on the side of the vehicle signifying that it is registered to be a courier.
2. “Limousine” means a motor vehicle with a passenger rated capacity of more than three, exclusive of the driver, and not regulated by the Office of Motor and Carrier Services of the Iowa Department of Transportation, including but not limited to standard size limo and 7 passenger van. A motor vehicle with a passenger rated capacity of more than 16 including the driver, and regulated by the Office of Motor and Carrier Services of the Iowa Department of Transportation to include but not limited to large vans, stretch limos, converted buses (rentertainment vehicle). The vehicle and driver are engaged in transportation of passengers for hire in a limousine service. The vehicle shall be operated on a fixed route or have reservations 24 hours in advance for their service, operate without a meter installed in the vehicle and charge for services on an hourly basis or longer periods of time, with a minimum of 1 hour required.
3. “Limousine business” means a firm that provides limousine services originating within the corporate limits of the metropolitan area.
4. “Metropolitan area” means the area within the corporate limits of the cities of Cedar Rapids, Marion, Hiawatha and Robins.
5. “Passenger” means any tangible item being transported including human cargo. All fares charged by the owner, operator, or driver of any taxicab shall be determined by the taximeter from the fare recorded on the face thereof when transporting passengers.
6. “Rentertainment vehicle” means a motor vehicle with a passenger rated capacity of more than 17 including driver, and regulated by the Office of Motor and Carrier Services of the Iowa Department of Transportation. The vehicle and driver are engaged in transportation of passengers for hire. The vehicle shall be operated on a fixed route or have reservations 24 hours in advance for their service, operate

without a meter installed in the vehicle and charge for services on an hourly basis or longer periods of time, with a minimum of 1 hour required. For definition purposes rentertainment vehicle will be considered a limousine throughout this chapter.

7. "Taxicab" means a motor vehicle regularly engaged in the business of carrying passengers for hire and not operated on a fixed route or schedule and operating with a meter.

8. "Taxicab business" means a firm that provides taxicab services originating within the corporate limits of the metropolitan area. Activities to be conducted include, but are not limited to: receiving calls and dispatching of taxicabs, transferring driver's and/or vehicles, parking and storage of vehicles, storage of lost or misplaced baggage, maintenance and storage of business records, the conducting of employee meetings and related personnel matters.

131.03 TAXICAB AND LIMOUSINE BUSINESS LICENSE.

1. Required. Every person owning, operating or controlling a taxicab or limousine within the limits of the City of Hiawatha shall be associated with a taxicab or limousine business, and each taxicab and limousine business shall obtain a business license. However, if the business has a valid business license issued by the City of Cedar Rapids, City of Marion or City of Robins, no license need be obtained for Hiawatha and reciprocity will be granted for the license issued within the metropolitan area and the vehicles and drivers shall be deemed to comply with the provisions of this chapter unless the license or reciprocity is suspended or revoked.

2. Any person seeking a taxicab or limousine business license shall file a completed application with the Hiawatha City Clerk. For the City to consider the application all questions must be answered fully and the application must be signed and verified by the applicant. Upon receipt of an application, the City Clerk shall forward it along with a background check from the Iowa Department of Criminal Investigations to the Chief of Police or their designee who shall review the application and background check and submit a recommendation to the City Clerk as to the approval and disapproval of the business license. Applicants who have not resided within the State of Iowa during the previous five years shall provide the City Clerk with background checks for each state they have resided in during that period. The applicant shall pay all costs associated with any background investigations. It shall be the duty of the Community Development Director to verify that the applicant fully complied with all applicable ordinances and regulations relating to buildings and zonings.

3. Qualifications for Taxicab Business License. Each company filing applications with the office of the City Clerk for a Taxicab Business License shall meet the following minimum requirements:

A. Provide an office which must be accessible 24 hours a day, seven days a week and upon request of the Chief of Police or their authorized representative.

B. Provide taxicab service to the public 24 hours a day, seven days a week and have a business telephone that is answered 24 hours a day, seven days a week so that any individual may request the services of the taxicab company. The business shall have a listed telephone number.

- C. Provide a minimum of three qualified licensed taxicab drivers.
 - D. Provide a minimum of two qualified licensed taxicab vehicles of which a minimum of one vehicle shall be in operation at all times. All taxicab vehicles covered under the business license must have the same paint color and design (existing vehicles will be grandfathered - all new vehicles must comply). The selected taxicab business paint color and design must be noticeably different than other existing taxicab businesses.
 - E. Meet all applicable zoning ordinance regulations and other applicable City regulations.
 - F. Activity Log. Each business must keep a daily activity log listing the date, time, trip origination address and trip destination address. The activity logs must be available for inspection by and upon the request of the Chief of Police or designees. The logs must be maintained by the taxicab business for a period of one year.
4. Qualifications for Limousine Business License. Each company filing applications with the office of the City Clerk for a Limousine Business License shall meet the following minimum requirements:
- A. Provide a minimum of one qualified licensed driver.
 - B. Provide a minimum of one qualified licensed vehicle.
 - C. Meet all applicable zoning ordinance regulations and other applicable City regulations.
 - D. Activity Log. Each business must keep a daily activity log listing the date, time, trip origination address and trip destination address. The activity logs must be available for inspection by and upon the request of the Chief of Police or designees. The logs must be maintained by the limousine business for a period of one year.
5. The business license application shall contain the following:
- A. The full name of the taxicab or limousine business, the street address of the premises for which the application is being made, all telephone numbers where the taxicab or limousine business will be conducted, and the paint color and design of the vehicles (taxicabs only).
 - B. The full name, address, telephone number, date of birth and social security number of the applicant, whether the applicant has been convicted of a felony as well as any aliases by which the applicant has been or is currently known.
 - C. The type of business entity such as sole proprietorship, partnership or corporation and, in the case of a corporation, the names and residence addresses of all officers and directors of the corporation and of each stockholder holding ten percent or more of the stock of said corporation; in the case, of a partnership, the names and residence addresses of all partners including limited partners of the partnership.
 - D. The name of the owner of the building where such taxicab or limousine business will be located.

- E. Copies of any lease or rental agreement governing the applicant's right in said building.
 - F. A sworn statement that the contents of the application are true and that the applicant is of good moral character.
 - G. The signature of the applicant or applicants or, if the application is in the name of a corporation, the signature of each officer of the corporation; if the application is in the name of a partnership, the signature of each partner, including limited partners, of the partnership.
6. If the City Clerk finds that the applicant has fully complied with all requirements of this chapter and with all other applicable ordinances and codes, the City Clerk shall authorize the issuance of a license to conduct a taxicab or limousine business at the location designated in the application. Such license shall commence on July 1, or the date the operations are started, if later, and shall terminate on the following June 30.
7. Fees. The annual business license fee shall be set by City Council resolution. Said fees shall be prorated quarterly and paid to the City Clerk of the city where the taxicab or limousine service has their primary office.
8. Each taxicab and limousine business shall have a separate license for each place of business, which shall be valid only for the business conducted at that location.
9. Each taxicab or limousine business shall display its license conspicuously where all persons entering such premises may readily observe such license.
10. No taxicab or limousine business license shall be sold or transferred. The purchaser or purchasers of any business or of the majority of the stock of any corporation operating a business shall obtain a new taxicab or limousine business license before operating such business at the location for which the license has been issued or at any other location.

131.04 VEHICLE LICENSE.

1. Required. No person shall operate any taxicab or limousine where service originates on the streets of the metropolitan area without a license therefor for each taxicab or limousine to be issued by the respective City Clerk. Taxicabs and limousines shall also have such licenses or certificates as may be required by the Iowa Department of Transportation. All vehicle licenses shall be turned into the City Clerk within 5 business days of the vehicle being taken off-line and/or out of service.
2. License. Upon approval of the application, the Hiawatha City Clerk will furnish for each qualified taxicab and limousine which meet minimum requirements as set forth in this chapter a license, giving the make and complete vehicle identification number (VIN) of the vehicle, vehicle license plate number and other information deemed necessary by the City Clerk. The owner of the vehicle shall display the vehicle license in the vehicle and produce the license upon request during the continuance of the license. Upon the expiration of the license the owner shall remove the vehicle license from the vehicle and remove all markings from the exterior of the vehicle.
3. License Fees. The license fee for each taxicab and limousine shall be set by City Council resolution per vehicle per fiscal year and paid to the respective City

Clerk. The license for each taxicab and limousine shall commence on July 1, or on the date the operations are started, if later, and shall terminate on the following June 30th.

4. Insurance. No license for a taxicab or limousine shall be issued, renewed or extended without the owner thereof first filing in the office of the City Clerk an insurance policy or certificate acceptable to the City Attorney issued by a company authorized to do business in the State of Iowa and acceptable to the City of Hiawatha.

A. All vehicles subject to this chapter shall be insured to cover their legal liability for personal injury or property damage that may result from an accident or other cause. Taxicabs shall have a minimum liability insurance coverage of \$500,000. Limousines shall have a minimum liability insurance coverage of \$1,000,000.

B. Before a policy may be suspended or canceled, the Hiawatha City Clerk's office must receive a minimum of 10 days prior written notice of such proposed suspension or cancellation.

C. The insurance policy shall be issued for a period to cover the life of the license applied for and shall commence either on the date of issuance of the license, or, July 1, and in each case be valid until the following June 30. Failure to keep such insurance policy in full force and effect shall be cause for revocation of the license.

D. The cancellation or other termination of any insurance policy or certificate shall automatically revoke and terminate the licenses for each vehicle listed on the insurance policy or certificate, unless another policy, complying with this chapter, shall be provided and in effect at the time of such cancellation or termination. The City Clerk shall immediately issue written notification of the revocation of all licenses for the taxicab or limousine business and the vehicles covered by such insurance which is canceled or terminated.

E. No driver or owner of a taxicab or limousine shall drive or permit to be driven a vehicle without an insurance policy or certificate acceptable to the City of Hiawatha being filed as herein provided.

F. The name of the insured on the certificate must contain the insured's street address.

5. Cabs and Drivers from other Cities. Any taxicab or driver licensed to operate in another city or county of this or any other state may carry passengers from said city or state where so licensed to any place within the City of Hiawatha and may freely enter and travel upon the streets and thoroughfares for that purpose. In such case it shall not be necessary for the owner of such vehicle to be licensed by the City of Hiawatha. However, neither the owner nor operator of such vehicle shall be permitted to accept any passenger for hire within the City of Hiawatha, or to otherwise operate within the City of Hiawatha without being licensed under the provisions of this chapter.

131.05 CONDITION OF THE VEHICLES.

1. All taxicabs shall have a sign permanently affixed to the rooftop of the vehicle that designates the vehicle as a taxicab.

2. Roof-mounted advertising signs are allowed on vehicles as long as the sign is safely and securely attached to the vehicle and does not extend beyond the roofline of the vehicle. Flashing, scrolling message, or other electronic advertising signs are prohibited.
3. All taxicabs shall be marked on the outside, on both sides, with the name of the company, phone number, unit number and established rates. The markings shall be painted or affixed by decal in letters or figures at least 2 ½ inches in height, except the rate letters or figures which must be at least 1 ½ inches in height.

131.06 VEHICLE INSPECTION REQUIRED. All vehicles governed by this chapter shall be subject to vehicle inspections as required by the City of Hiawatha to confirm that they meet all of the requirements set forth in this chapter for taxicabs or limousines. Vehicle inspections will be conducted as authorized by the City of Hiawatha Police Department or their designee. A valid DOT vehicle inspection can be substituted in place of a City inspection. The vehicle inspection fees shall be set by City Council resolution and paid to the Hiawatha City Clerk. Every taxicab or limousine shall be inspected before being put in service, including vehicles that change ownership, and a new inspection fee shall apply. Thereafter, taxicabs and limousines shall be inspected annually for such period of time as the same continues to be operated as a taxicab or limousine. Vehicle inspections may also be required more frequently on an as-needed basis as determined by the Chief of Police or their designee. No vehicle shall obtain a license, or be operated as a limousine or taxicab without passing such inspections. Each vehicle passing such inspection shall be provided with a sticker provided by the City Clerk to be placed in clear view of the vehicle's windshield as determined by the City Clerk.

131.07 TAXIMETERS.

1. Required. Every taxicab operating on the streets of the metropolitan area shall have installed and be equipped with a taximeter of standard size and design, approved by the Chief of Police or their designee. All fares charged by the owner, operator or driver of any taxicab shall be determined by the taximeter from the fare recorded on the face thereof when transporting passengers.
2. Inspection. No vehicle license shall be issued to any taxicab owner or operator until the meter installed in any such taxicab shall have been inspected by the Police Department and found to be accurate.
3. Operation. Only meters operated from the transmission shall be used on taxicabs.
4. Inaccuracy. No person shall use, or permit to be used, upon any taxicab a meter which shall be in such condition as to be inaccurate by plus or minus 44 feet over a one-mile course.
5. Illumination of Dial. No meter shall be used between sunset and sunrise unless the face of the meter is illuminated by a suitable light, or if the meter has digital numbers they must be lighted at all times.
6. Sealed Case. No person shall use, or permit to be used, or drive for hire, a taxicab equipped with a meter, the case of which is unsealed, and which does not have its cover and gear intact.
7. False Signal. No driver or operator of a taxicab equipped with a taximeter and while carrying passengers, or under employment, shall display the signal affixed

to such taximeter in such position as to denote that such vehicle is not employed, or in such a position as to denote that the driver is employed at a rate of fare different from that to which the driver is entitled under the provisions of this chapter.

131.08 CITY TAXI/LIMO DRIVER'S LICENSE.

1. Required. No person shall drive a taxicab or limousine for the purpose of carrying passengers for hire without first obtaining a city taxi/limo driver's license except for the reciprocity granted by Section 131.03 above. Any driver with a City of Hiawatha taxi/limo driver's license must surrender it to the City Clerk within 5 business days of terminating their employment with a taxi/limo company licensed to operate in Cedar Rapids, Marion or Robins unless driving for a business with a Hiawatha license.

2. Qualifications. An applicant or current licensee for a city taxi/limo driver's license must:

- A. Be of the age of 18 years or older.
- B. Possess such current license as may be required by the state and federal authorities to operate the particular vehicle type.
- C. Have complied with all requirements with the State of Iowa for obtaining a Class "D" chauffeur's license or CDL license as required.
- D. Be able to speak, read and write the English language.
- E. Be clean in dress and person and not be addicted to intoxicating liquor, drugs, or other chemical substances. No person shall drive a taxicab or limousine unless the person shall at all times be attired in the uniform consisting of trousers and shirt or other uniform so designated by the driver's company and approved by the Chief of Police or their authorized representative. Walking shorts shall be allowed provided that they are no shorter than 2 inches above the knee when standing.
- F. File a completed application with the Hiawatha City Clerk. For the City to consider the application all questions must be answered fully and the application must be signed and verified by the applicant. Upon receipt of the application, the City Clerk shall forward it along with a background check from the Iowa Department of Criminal Investigations to the Chief of Police or their designee who shall review the application and background check and submit a recommendation to the City Clerk as to the approval or disapproval of the license. Applicants who have not resided within the State of Iowa during the previous five years shall provide the City Clerk with background checks for each state they have resided in during that period. The applicant shall pay all costs associated with any background investigations.
- G. Not have been convicted within the past five years of a felony, or of a crime involving sexual abuse, nor shall the applicant's name appear on a current sexual abuse registry. Shall not have been convicted within the past three years of a crime involving violence against others, including assault and domestic abuse. Shall not have been convicted within the past three years of one or more violations of Iowa Code 321J.2 (OWI); nor be convicted in the previous three years of any violation which resulted in an automatic suspension of an operator's or chauffeur's license pursuant to Chapters 321, 321A or 321B of the Code of Iowa.

3. Revocation or Suspension.
 - A. An application or license denied, revoked, or suspended by any city will not be issued by any other city within the metropolitan area until such time all requirements of this chapter are met and resubmitted to the originating city.
 - B. Upon finding by the Chief of Police or their designee that any of the requirements set forth in this chapter have been violated subsequent to the filing of the application, the city taxi/limo driver's license may be suspended or revoked after notice and hearing. The license may also be suspended or revoked if the applicant provides false information on the license application. A license revoked in one city in the metropolitan area will not be reissued in another city until the revocation period has expired.
 - C. If a complaint is received about a driver or a driver is charged with a criminal offense other than a simple misdemeanor moving violation while on duty, the driver is subject to a hearing and a possible revocation or suspension of his/her taxi/limo driver's license.
4. Term and Fee. Each city taxi/limo driver's license will be for a term of one year and the annual fee shall be set by City Council resolution.
5. Photograph. Each applicant for a city taxi/limo license shall file have their picture taken in the City Clerk's Office. Said photographs shall be in color, taken against a solid colored background, and shall show the applicant's full face and shoulders.
6. Background Investigation. A background investigation of the applicant will be initiated through the Iowa Department of Criminal Investigations. The applicant will pay for all costs associated with any background investigations.
7. Display of Taxi/Limo Driver's License. There shall be properly displayed within the vehicle the city taxi/limo driver's license of the person driving such vehicle. The city taxi/limo driver's license shall be affixed to such place in the vehicle designated by the Chief of Police or their designee and produced upon request. The license shall be covered with transparent material and must be kept legible, clear and clean.

131.09 INFORMATION. The owner, driver, or operator of any licensed taxicab or limousine shall, upon request, give any person the number of said vehicle, the name of the owner, driver, or operator thereof, and the address of their place of business.

131.10 NO SMOKING ALLOWED. Passengers and drivers are not allowed to smoke in taxicab or limousine vehicles. Decals or signs must be conspicuously displayed on the inside of vehicles that read "NO SMOKING ALLOWED IN THIS VEHICLE."

131.11 RATES/FARES.

1. Taxicab rates shall be established by resolution of the City Council. Taxicab operators shall not charge fares higher than the established rates, but may charge fares that are less than the established rates.
2. After the original passenger or passengers have engaged the services of a taxicab, no additional passenger shall be accepted by the operator of a taxicab without the express verbal permission of the original passenger or passengers.

3. The established rates shall be painted or affixed by decal in letters and figures at least 1-1/2 inches in height in a prominent place on either the outside metal surface of a door or similar surface on both sides of each taxicab. Each limousine vehicle shall have their rates printed and located in the vehicle and available upon request.
4. Any person who shall have hired a taxicab/limousine for the purpose of transporting passengers and who shall refuse to pay the specified fare shall be guilty of a misdemeanor.

131.12 PROHIBITED ACTS.

1. No taxicab shall transport more passengers at any one time than the vehicle has working seatbelts available to accommodate. No more than one person in addition to the driver shall be allowed in the front seat, and no one shall be seated in such a way as to interfere with the driver's operation of the taxicab. All vehicles, when applicable, are required to abide by all city and state laws governing child restraints and whenever needed, the passenger is responsible to provide the appropriate child seat.
2. No driver shall deceive any passenger as to destination, route, or authorized taxicab rates.
3. No driver shall take a circuitous route to a destination or any other route than the most direct route, without the express consent of the passenger.
4. No driver shall overcharge or fail to provide a receipt upon request.
5. No driver shall drop a passenger at a location other than the location requested.
6. No driver shall be in possession of or consume any alcoholic beverage while on duty or consume any alcoholic beverage within four hours before beginning work shift.
7. The transferring of drivers and/or vehicles in a residential district is restricted to a maximum of one vehicle per residential building address.

131.13 SOLICITATION.

1. Solicitation of Passenger by Drivers. No owner, operator, or driver of a taxicab or limousine, while conducting business and accepting passengers for hire on a public street or any other public place, shall solicit passengers for hire for a taxicab or limousine except when sitting in the driver's compartment or while standing immediately adjacent to the curbside thereof except, in connection with limousine counters leased at The Eastern Iowa Airport, and shall remain in the driver's compartment or immediately adjacent to drivers vehicle at all times. Nothing herein contained shall prohibit a driver from alighting for the purpose of assisting passengers into or out of the vehicle or from complying with the directions of the person engaging the taxicab or limousine regarding the loading or unloading of any baggage, goods, wares or merchandise.
2. Prohibited Soliciting.
 - A. No owner, operator, or driver shall solicit patronage in a loud or annoying tone of voice or by sign or in any manner annoying any person, nor by obstructing the movement of any person or following any person for the purpose of soliciting patronage.

- B. It shall be unlawful for any operator of a taxicab or limousine to solicit a passenger or passengers for hire when said passenger or passengers have engaged another taxicab or limousine and are awaiting the arrival of such vehicle.
3. Solicitation of Other Common Carrier Passengers. No owner, operator, or driver shall solicit passengers within the terminal of any other common carrier nor at any immediate points along any established routes of any common carrier. This section is not intended to preclude a response to any call for taxicabs or limousines made by telephone or signal from a pedestrian or from soliciting patronage of a debarking passenger of any common carrier.
4. Manner of Progress in Line.
- A. When a taxicab conducting business by transporting or soliciting passengers for hire at public buildings leaves the line upon the taxicab stand, those behind it shall immediately move up and a taxicab seeking a place on the taxicab stand shall approach the same only from the rear of the stand and shall stop as near as practicable to the last cab in the line.
- B. All limousines conducting business by transporting or soliciting passengers for hire at public buildings shall stop and stand in the area designated for limousines if there is a marked area.

131.14 REVOCATION FOR VIOLATIONS AND INJUNCTIVE REMEDY. Any violation of this chapter or of the laws of Iowa may be sufficient grounds for a hearing to consider revoking any license issued to any owner, driver or operator of any taxicab or limousine. In addition to the criminal penalties set out in this chapter, the City may also pursue injunctive or other relief to prohibit or regulate a taxicab or limousine not complying with the provisions of this chapter.

131.15 DUTY TO CARRY ORDERLY PASSENGERS. No taxicab driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so. The driver shall, however, not be obligated to convey any person who is incapable of entering the taxicab unassisted due to intoxication or convey any person with objectionable personal hygiene.

131.16 EXCEPTIONS. The following are excluded from the provisions of this chapter: free shuttle services provided by hotels, motels and other boarding places for the purpose of transporting patrons between the hotel, motel, or boarding place and another point; free shuttle services provided by auto repair shops for the purpose of transporting patrons between the auto repair shop and another point; volunteer services that utilize volunteer drivers and vehicles; ambulances and other emergency vehicles; public transit vehicles; and taxicabs or limousines licensed to operate in another city or county that have a prior reservation to pick up a passenger and transport that passenger to a destination outside of the City of Hiawatha.

(Chapter 131 – Ord. 735 – Feb. 13 Supp.)

[The next page is 614.1]

CHAPTER 134

RIGHT-OF-WAY

134.01 Purpose
134.02 Administration
134.03 Definitions

134.04 Visual of Right-of-Way Description
134.05 Permit Required

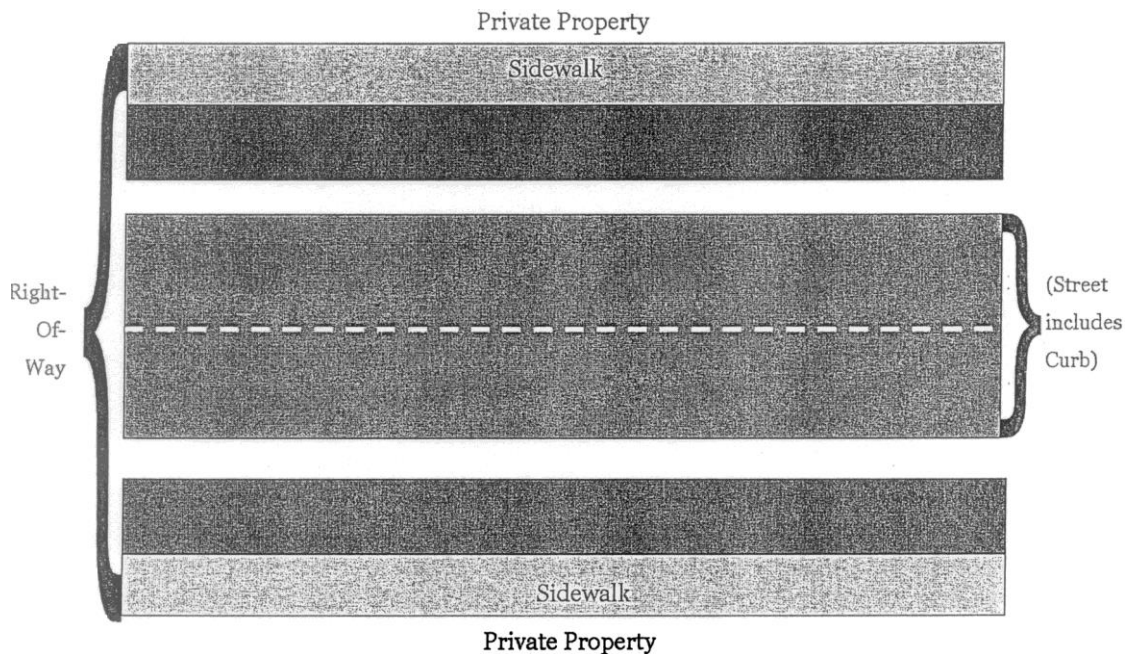
134.01 PURPOSE. The purpose of this chapter is for the regulation of the use of public rights-of-way in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety and function of the public right-of-way. The following sections shall be made a part of the specifications for any and all work or use within an existing or future public right-of-way.

134.02 ADMINISTRATION. The Community Development Department along with the City Engineer is the principal City official responsible for the administration of the rights-of-way, right-of-way permits and the ordinances related thereto. The Community Development Department and the City Engineer's authority shall establish rules and regulations governing street excavations and shall implement this chapter. The Community Development Department and the City Engineer may delegate any or all of the duties hereunder.

134.03 DEFINITIONS.

1. "City" means the City of Hiawatha, Iowa.
2. "City Standard Details and City Standards, Specifications, Rules and Regulations" refers to general engineering standards, specifications, rules and regulations and the standard details for construction activities within the City right-of-way.
3. "Excavation" means an operation for the purposes of movement or removal of earth, rock or other materials in or on the ground or otherwise disturbing the subsurface of the earth, by the use of powered or mechanized equipment, including but not limited to, digging, blasting, auguring, backfilling, test boring, drilling, pile driving, grading, plowing-in, hammering pulling-in, trenching, tunneling, reclamation processes, and milling; excluding the movement of earth by tools manipulated only by human power and tilling of soil for agricultural purposes.

4. “Facility(ies)” means any wire, cable, pipe, vault, storage tank, transformer, or other similar property or equipment owned by public utilities for furnishing electric, gas, telephone, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, traffic signal, fire signal, or similar service, regardless of whether such property or equipment is located on land owned by a person or public agency or whether it is located within an easement or right-of-way, but excluding property or equipment owned by the owner of a private residence for utility service solely for such residence.
5. “Permittee” means a person who has obtained a permit as required by this chapter.
6. “Person” means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
7. “Right-of-way” means the area on, below, or above the public roadway, highway, street, vegetative area, bicycle path, place, alley, sidewalk, park, or any other similar public property or easement owned or controlled by the City and dedicated to public use. The City has an interest for public travel and utility purposes. A right-of-way does not include the airwaves above the right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
8. “Right-of-way permit” refers to a permit issued by the City Community Development Department, describing the work proposed within the City right-of-way and conditions permittee shall be obligated to comply with including requirements set forth under this right-of-way chapter.
9. “Utility” means the owner or operator of underground or above ground facilities and their plant or similar facilities. Such facilities may consist of, but not be limited to, public or private companies selling or controlling the sale, distribution or use of water, gas, electricity, cable television, communication systems, sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), railroad lines and tracks, wires, cables, ducts, pipes, manholes, transformers, poles, towers, steam, traffic signal, fire signal or similar service.

134.04 VISUAL OF RIGHT-OF-WAY DESCRIPTION.

(Ord. 763 - Mar. 14 Supp.)

134.05 PERMIT REQUIRED. For additional regulations and permitting requirements see requirements of:

1. Chapter 135 Excavations in the right-of-way.
2. Chapter 115: utility work in the public right-of-way see.
3. Chapter 136: Work on sidewalks in the right-of-way.
4. Chapter 96: Work on sanitary sewer connections.
5. Chapter 151: Trees planted in the right-of-way.
6. Hiawatha Water Department Rules and Regulations: Water service connections.

(Ord. 813 - Jan. 15 Supp.)

(Ch. 134 - Ord. 653 - Feb. 10 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.14 Mail Boxes

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. Parades and other special events addressed through other administrative processes shall not be considered obstructions but shall be regulated in accordance with the Traffic Control Ordinances and the Special Events Policy of the Fire Department and Police Department of the City of Hiawatha.

(Code of Iowa, Sec. 716.1)

(Ord. 814 – Jan. 15 Supp.)

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 lot, alley, or public right-of-way unless such person first obtains a Right-of-Way permit therefor as hereinafter provided:

1. Application. Before such permit is granted, the person shall file with the City a written application. The application 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; and

- E. Detailed lane restrictions, road closures, and required detours.

2. Winter Excavations. It is unlawful to make any excavation in any street or highway within six (6) feet of the existing water pipe while the ground is frozen, or to dig up or uncover so as to expose to frost any water pipe without the special permission in writing of the Water Superintendent or the City Engineer.

3. 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.
4. Traffic Control:
 - A. Applicant shall be responsible for all traffic control safety measures required for work in the right-of-way in accordance with the applicable Metro Standards and Traffic Control Laws for the State of Iowa.
 - B. For work that includes a right-of-way closure the applicant shall also:
 - (1) Apply for the permit at least one week prior to the anticipated closure. Application for the permit is not considered the notification to Community Development.
 - (2) Notify Community Development of the dates of road closure at least one week before road closure.
 - (3) Notify adjacent property owners and residences three days in advance of the closure.
 - (4) Install all necessary traffic detour and warning signage three days in advance of the work. Signs shall be installed in accordance with the applicable Metro Standards.
 - (5) Remove all traffic signage when the right-of-way is reopened.
5. 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.
6. Surety Bond. Before an excavation permit is issued pursuant to this chapter, each applicant, except public utility companies, shall deposit with the Clerk a surety bond in the amount of \$10,000 payable to the City. The required surety bond must be:
 - A. With good and sufficient surety;
 - B. By a surety company authorized to transact business in the State;
 - C. Satisfactory in form and substance to the City Attorney;

D. Conditioned upon the permittee's compliance with this chapter and to secure and hold the City and its officers harmless against any and all claims, judgements, attorney fees and costs, or other costs arising from the excavation and other work covered by the excavation permit or for which the City, the Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to maintain any street where excavation is made in as good condition for the period of four (4) years after said work shall have been done, usual wear and tear excepted, as it was in before the work shall have been done.

Any settlement of the surface within said 4-year period shall be deemed prima facie evidence of defective backfilling by the permittee. Nothing in this chapter shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate, repairing or engaging another to repair his or her own sidewalk, shall not be required to give such bond. Recovery on such bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the City by reason of the negligence or default of the permittee, upon the City's giving written notice to the permittee of such suit or claim, any final judgement against the City requiring it to pay for such damage shall be conclusive upon the permittee and the permittee's surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from the date.

(Ord. 858 – Jun. 16 Supp.)

7. 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 - no less than \$1,000,000.
- B. Property Damage - no less than \$1,000,000.

8. 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.
9. 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.
10. 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.
11. Settlement & Seeding. The permit holder shall be responsible for maintenance of any excavation, backfill or seeding for a period of four (4) years after the completion of the permanent restoration. If at any time within such four (4) years, the excavation or backfill settles, or seeding does not take, as a result of the work performed, the permit holder shall remedy the issue(s) at the permit holder's expense. After written notice, if the permit holder fails to remedy the issue(s), the City may perform the necessary work and assess all costs associated with the work to the permit holder.
12. 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.
13. Right-of-Way Permit Fee. A permit fee set by Council resolution shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
14. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
15. Quality Regulation. All persons or entities installing, constructing, performing maintenance, reconstructing or repairing any utility lines or associated structures pursuant to a City issued permit agree to perform the work in compliance with all Federal and State laws,

all Hiawatha City codes, specification, and ordinances, and the Metro Area Standard Specifications for Public Improvement, 2003 ed. Furthermore, Underground Facilities Information, Iowa Code Chapter 480, is made a part of this policy. The law requires persons excavating to contact the one call system at least forty-eight (48) hours prior to any excavation. Iowa One Call can be reached at 1-800-292-8989 or 811.

16. Compliance. Failure to comply with this Chapter may result in the issuance of a stop work order, double permit charges, issuance of a municipal infraction and/or denial of any further excavation permits until a bond or letter of credit is submitted and the City is satisfied that the permit holder will comply with this Chapter. A failure to complete work may result in the City, after written notice to the permit holder and without any response from the permit holder, performing the necessary work to complete the excavation, including surface restoration, and assessing all costs associated to the permit holder in accordance with the provisions of this Chapter.

(Ord. 814 – Jan. 15 Supp.)

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. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written notice to the abutting property owner who shall maintain the area. This provision shall be interpreted and enforced consistently with Section 151.03 of this Code of Ordinances.

(Ord. 604 – Aug. 07 Supp.)

(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.

135.14 MAIL BOXES. The property owner may, at the owner's expense, install a mail box. Said mail box support post shall set back a minimum of six inches (6") from the back of the curb and support post shall be no larger than four inches by four inches (4"x4"), or a two inch (2") diameter standard steel or aluminum pipe, buried no more than twenty-four inches (24") below grade. In the event a mail box is damaged by the City in the course of snow removal or street maintenance, the City shall reimburse the property owner the actual replacement/repair not to exceed \$50.00.

(Ord. 549 – Sep. 04 Supp.)

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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/Bond Requirement	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. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to one (1) inch or more.
 - B. Horizontal separations equal to one (1) inch or more.
 - C. Holes, missing sections or depressions equal to one (1) inch or more in depth and at least four (4) inches in diameter.
 - D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one (1) inch or more.
 - E. Sloping from side to side in excess of one (1) inch per foot.
 - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
 - G. Raised or depressed sections of sidewalk more than three (3) inches above or below design or construction elevation.

(Ord. 871 – May 17 Supp.)

3. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
5. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, not to exceed twenty-four (24) hours following the cessation of snow fall or the forming of ice, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written notice to the abutting property owner who shall maintain the area.

(Ord. 605 – Aug. 07 Supp.)

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written

notice to the abutting property owner who shall maintain the area. This section shall be interpreted consistently with Section 136.05 of this chapter.

(Ord. 605 – Aug. 07 Supp.)

(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. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written notice to the abutting property owner who shall maintain the area. This section shall be interpreted consistently with Section 136.04 of this chapter.

(Ord. 605 – Aug. 07 Supp.)

(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/BOND REQUIREMENT.

1. Permit. 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. Permit fee shall be set by resolution of the City Council.

2. Penal Bond/Maintenance Bond. No person shall commence removal, reconstruction or installation of a sidewalk until a bond is posted pursuant to Section 135.09 (5) (A) & (B). Property owners who perform the work to remove, reconstruct or install a sidewalk abutting their property shall be exempt from the requirements under Section 135.09 (5) (A) & (B).

(Ord. 815 – Jan. 15 Supp.)

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, sand, or cinders 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 five (5) 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 within the City parking with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.
11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or

near the crosswalks at intersections. Each curb cut or ramp shall be the same width as the sidewalk, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

(Ord. 815 - Jan. 15 Supp.)

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.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.01 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.

A. Southeast corner of Stamy Road and Tower Terrace Road, a portion of the unused right of way on the property legally described as Parcel A of Plat of Survey No. 1913.

(Ord. 791 – Aug. 14 Supp.)

B. Northerly portion (320 feet) of Kainz Drive right of way described as Parcel A, Plat of Survey No. 1929, Auditor's Plat #372.

(Ord. 809 – Jan. 15 Supp.)

C. Part of Lot 18, Boyson Road right of way described as Parcel A, Plat of Survey No. 1952, Auditor's Plat #372.

(Ord. 810 – Jan. 15 Supp.)

D. Portion of Boyson Road right of way described as Parcel A, Plat of Survey No. 1995. *(Ord. 836 – Oct. 15 Supp.)*

E. Portion of Langston Drive right of way described as 33-NE SW 32-84-7, Hiawatha North 15th. *(Ord. 867 – Jun. 16 Supp.)*

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)

1. Disposal of Vacated Public Ground. The City of Hiawatha has determined the necessity for the disposal of the following vacated properties:

A. Southeast corner of Boyson Road and North Center Point Road including Parcels A and C which give access to Parcel B with an address known as 999 Boyson Road.

B. Langston Drive right-of-way east of 12th Avenue identified in Parcel A, Plat of Survey No. 2075.

(Ord. 868 – May 17 Supp.)

C. Southeast corner of Stamy Road and Tower Terrace Road identified in Parcel A, Plat of Survey No. 1913 with an address known as 905 Tower Terrace Road.

D. Northerly portion of Kainz Drive right-of-way identified in Parcel A, Plat of Survey No. 1929, Auditor's Plat No. 372.

E. Part of Lot 18, Boyson Road right-of-way identified in Parcel A, Plat of Survey No. 1952, Auditor's Plat No. 372.

F. Boyson Road right-of-way identified in Parcel A, Plat of Survey No. 1995 with an address known as 1195 Boyson Road.

(Subsections C – F – Ord. 869 – May 17 Supp.)

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

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CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
59	September 27, 1962		
63	July 18, 1963		
65	September 25, 1964		
73	April 7, 1966		
90	October 8, 1970		
107	June 26, 1972		
111	August 15, 1973		
125	October 8, 1975		
164	November 18, 1981		
189	August 17, 1983		
269	August 1, 1990		
320	June 16, 1993		
414	October 16, 1996		
420	December 18, 1996		
516	April 17, 2002		

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street

139.03 Recording Street Names
139.04 Revision of City 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 adoption of a resolution naming or changing the name of a street, the Mayor and Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 REVISION OF CITY MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official City Map promptly after the resolution has been approved by the Council.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Building Official is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF HIAWATHA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

EDITOR'S NOTE

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “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.
3. “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 “mobile home park” is not to be construed to include 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 mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a 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. Dealer's Stock. Mobile homes or manufactured homes on private property as part of a dealer'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 mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a 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)

(Chapter 146 amended by Ord. 458 – May-99 Supp.)

CHAPTER 147

MOBILE HOME PARKS

147.01 Purpose	147.19 Water Distribution System
147.02 Definitions	147.20 Individual Water Riser Pipes and Connections
147.03 Limitations on Uses	147.21 Sewage Disposal
147.04 Mobile Home Park Development Plan	147.22 Sewer Lines
147.05 Area	147.23 Individual Sewer Connections
147.06 Yards	147.24 Electrical Distribution System
147.07 Required Separation Distances	147.25 Main Electrical Power Distribution Lines
147.08 Park Perimeter General Area Requirements	147.26 Individual Electrical Connections
147.09 Soil and Ground Cover Requirements	147.27 Required Grounding
147.10 Site Drainage Requirements	147.28 Service Buildings and Community Service Facilities
147.11 Lot Markers	147.29 Refuse Hauling
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147.01 PURPOSE. The purpose of this chapter is to provide for municipal regulation of mobile home parks in furtherance of the public health, safety, morals and welfare, and to regulate mobile home parks, lot size, parks, street standards, density, common areas, sewage requirements, water supply, mobile home stands, skirting of mobile homes, tenant storage, community buildings, yards, health standards, fire standards, building standards, recreation areas, parking areas, refuse handling, and insect and rodent control in the City.

147.02 DEFINITIONS. The following definitions shall be applicable to the terms used in this chapter.

1. “Accessory use” means a use incidental to the primary use of the mobile home park such as direct service facility building, park management building, maintenance building, community buildings or other uses of a similar nature.
2. “Approved mobile home park development plan” means the mobile home park development plan approved by the Council.
3. “Appurtenances” means an attached or detached enclosed addition to a mobile home, situated on the mobile home lot for the use of its occupants, such as an enclosed carport, garage, storage shed, or items of a similar nature.
4. “Building Codes” means those applicable codes enforced by the Building Department of the City.

5. "Common area" means any area or space designed for joint use of tenants occupying mobile home parks.
6. "Common walk system" means sidewalks within the mobile home park.
7. "Community building" means a building housing toilet and bathing facilities for men and women, a slop-water sink and such other facilities as may be required by this chapter.
8. "Density" means the number of mobile homes or mobile home stands per gross acre.
9. "Design standards" means those standards and specifications adopted and approved for public improvements by the City.
10. "Driveway" means a minor private way used by vehicles and pedestrians on a mobile home lot.
11. "Easement" means a vested or acquired right to use land, other than as a tenant, for a specific purpose. Such right being held by someone other than the owner who holds title to the land.
12. "Electric park receptacle" means the waterproof, attachment receptacle device located adjacent to the water and sewer outlets to receive the flexible cable from the mobile home or where required, the permanently installed conductors.
13. "Electric service drop" means that part of the electric distribution system from the main electrical distribution system, overhead or underground to the service equipment serving one or more mobile home spaces.
14. "Existing installations" means those installations which were constructed before the effective date of the ordinance codified in this chapter.
15. "Health authority" means the legally designated health authority of the City or the authorized representative of such authority.
16. "Mobile home" means a transportable, single family dwelling unit suitable for year round occupancy having no foundation other than the wheels, jacks, piers, or skirtings and containing water supply, water disposal, heating and electrical conveniences.
17. "Mobile home lot" means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

18. “Mobile home park” means a parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.
19. “Mobile home park development plan” means a custom-made design for a specific site or area consisting of drawings, maps, and engineering details to set forth the boundary, topography and overall park design, including streets, parking facilities, mobile home lot locations and service facilities.
20. “Mobile home stand” means that part of an individual mobile home lot which has been reserved for the placement of the mobile home and any appurtenances thereto.
21. “New installations” means those which are proposed for construction after the effective date of these rules and regulations.
22. “Patio” means a surfaced outdoor living space designed to supplement the mobile home living area.
23. “Permit” means a written permit issued by the City Building Department permitting the construction, alteration and extension of a mobile home park under the provisions of this chapter.
24. “Plat” means a map, plan, or chart of a City, Town, Section, County section, or subdivision, indicating the location and boundaries of individual properties.
25. “Private street” means a private way which affords principal means of access to abutting individual mobile home lots or accessory buildings.
26. “Property line” means a recorded boundary of a plat.
27. “Public street” means a public way which affords principal means of access to abutting properties.
28. “Public system (water or sewage)” means a system which is owned and operated by a local governmental authority or by an established public utility company which is adequately controlled by governmental authority. Such systems are usually existing systems serving the municipality or a water or sewer district established and directly controlled under the laws of the state.
29. “Right-of-way” means the area, either public or private, over which the right of passage exists.

30. “Roadway” means that portion of the mobile home park street system that is surfaced for the actual travel or parking of vehicles, and includes curbs.
31. “Sewer connection” means the connection consisting of all pipes, fittings, and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe of the sewerage system serving the mobile home park.
32. “Sewer riser pipe” means that portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home lot.
33. “Single ownership” means an individual, partnership, corporation, or other entity owning the whole park.
34. “Skirting” means the materials and construction around the perimeter of a mobile home floor between the bottom of the mobile home floor and the grade level of the mobile home stand.
35. “Tenant storage” means an enclosed space designed to provide auxiliary general storage space for an individual mobile home.
36. “Transient use” means the occupancy of a mobile home lot by a mobile home for a period of 14 days or less.
37. “Water connection” means the connection consisting of all pipes, meter pit, meters, and fittings from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.
38. “Water riser pipe” means that portion of the water supply system serving the mobile home park which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot.
39. “Yard” means the area on the same lot with a mobile home between the lot line and the front, rear, or side of the mobile home.

For purposes of this chapter the “front” of a mobile home shall be considered as that part of the mobile home facing toward the approved street or right-of-way as required by this chapter.

147.03 LIMITATIONS ON USES. The area proposed for a mobile home park shall have at least seven (7) acres of gross development area or provide for a minimum of 40 single wide mobile home lots or a combination of single and double wide with a minimum square footage for single wide of 6,000 square feet and double wide of 7,200 square feet. Such area may be developed in two or more stages, provided that said stages conform in all respects with the overall

mobile home park development plan. Occupancy shall not be permitted until all facilities and improvements are installed and operational for not less than twenty-five (25) mobile home lots. The maximum density allowed for the gross development area shall be six (6) mobile home units per acre. No mobile home shall be connected to water, sewer, or electrical service unless the mobile home complies with the standards and requirements prescribed by *Standard for Mobile Homes, USAS A119.1, 1963* and amendments thereto published by United States of America Standards Institute as applicable or an equivalent standard. Compliance with the aforesaid standard shall be determined by the Building Official. A certificate issued by the manufacturer of the mobile home shall be permanently affixed on a readily visible location on the exterior of the mobile home as prima facie evidence of such compliance.

147.04 MOBILE HOME PARK DEVELOPMENT PLAN. No mobile home shall be located or altered, or land or water used, nor shall any certificate of occupancy be issued therefor by the Building Official unless and until the required mobile home park development plan is officially approved by resolution of the Council. Existing mobile home parks shall comply in the area of change if lot sizes are changed or any new area developed. The proposed mobile home park development plan shall conform to the following:

1. The plan shall show the following:
 - A. Topography with topographic lines at a minimum of two (2) foot intervals.
 - B. Park boundaries and dimensions as obtained by a boundary survey by a licensed land surveyor in the State of Iowa.
 - C. Location and area of all uses, including streets adjacent to and within the park; walks, patios, mobile home stands; play areas, parks, and common open spaces, parking areas; utilities including street lighting and fire hydrants; physical features such as retaining walls, fences, trees, and natural features; other information that may be required by the Planning and Zoning Commission, Engineering, Traffic, Fire, Health, Water, or Building Departments; easements and dedications.
2. The mobile home park development plan shall be prepared by a landscape architect, architect, engineer, land surveyor, or other experienced designer and have the seal of a duly authorized engineer or land surveyor in the State of Iowa, certifying boundaries, boundary measurements, and such other matters as are required to be so approved by the Subdivision Regulations.

3. The proposed mobile home park development plan shall be in accordance with the site design plan approved by the Council with the R-MH zoning granted for the proposed mobile home park.
4. Every mobile home park shall be constructed and maintained in accordance with the approved mobile home park development plan.
5. All mobile homes shall be located and maintained in full conformity with the approved mobile home park development plan.
6. In recommending upon and approving mobile home parks, the Council shall consider the location, size, height, spacing, and extent of use of any mobile home and its appurtenances, access and circulation for vehicles and pedestrians, streets, parking areas, yards and open spaces and the relationship to adjacent property. The Planning & Zoning Commission shall not recommend nor the Council adopt such mobile home park development plan unless it finds that such plan conforms to all applicable provisions of this chapter.
7. If said mobile home park development plan contains no dedication to the City for streets or utilities or should it be contemplated that the facilities of the City shall not be used for maintenance of streets, sidewalks, water and sewer lines, garbage collection or other related functions, then the owners of the real estate contained in the mobile home park development shall be required to record with the mobile home park development plan a covenant that said owners will maintain said streets, sidewalks, water and sewer lines in compliance with the minimum standards as established by the City, and that should such owners or their assignees, heirs or those holding or owning said land through said owners fail to maintain said standards in any of these respects, the City may, after ten (10) days' notice to such owners, effect all the necessary repairs or improvements as required to maintain said minimum standards and the cost of all these and other necessary repairs or improvements shall become a lien against said real estate and enforced and recorded as mechanic's liens are enforced and recorded against such real estate.
8. Amending Procedure.
 - A. If it is found necessary to make material or substantial alterations or modifications to an approved mobile home park development plan, such alterations or modifications shall be subject to the approval of the Council.

B. A request for approval of alterations or modifications of a previously approved mobile home park development plan shall be accompanied by the same kind and number of exhibits as are required for a new request for approval insofar as such exhibits are applicable to the requested alterations or modifications. When the Council by official resolution approves the revised mobile home park development plan, said revised plan will supplant the original approved mobile home park development plan.

C. If a reasonable length of time has elapsed without significant progress having been made in completion of the mobile home park or if there has in the interim been a significant environmental change within or surrounding the area covered by the plan, the Council may require that a revised plan be submitted by the developer.

147.05 AREA. Every lot upon which a mobile home unit is located shall front onto an approved public or private street or right-of-way as defined in this chapter and shall conform to the following minimum lot area and width requirements.

1. Residential Use. The lot area shall be a minimum of 6,000 square feet for single wide and 7,200 square feet for double wide mobile homes, with a minimum depth of 120 feet on its longest side, and with a minimum frontage on an approved public or private street or right-of-way of not less than 15 feet. However, such minimum lot area may be reduced by an amount equal to an area included in common open space which is defined as an area permanently reserved as open space — not including land in individual lots, parking areas or streets — contiguous and immediately available to the individual lot or lots having reduced, minimum areas, and by means of location, size, shape and landscaping being obviously primarily for the utilization and enjoyment of the inhabitants of the said contiguous lots. An individual mobile home lot shall not be reduced in an area to less than 3,750 square feet.

2. Accessory Uses. The lot area shall be a minimum of 4,000 square feet for basic requirements for such uses as direct servicing, management and maintenance of the park. Any such structure shall be of permanent type construction meeting all local applicable building codes. For uses requiring larger lot areas than heretofore set forth under this section, such uses may be permitted if lot sizes are increased proportionately to maintain minimum yard and separation requirements.

147.06 YARDS. All mobile home lot yards shall be subject to the following provisions:

1. Front Yard. Every lot shall have a front yard not less than 20 feet in depth measured from the edge of the surface of the public or private street, or right-of-way to the closest point on the lower surface of the mobile home.
2. Side and Rear Yards. Side and rear yards shall be provided and maintained as set forth in this chapter.

147.07 REQUIRED SEPARATION DISTANCES.

1. Every mobile home shall be separated from other mobile homes and from accessory buildings on adjacent lots by a minimum distance of twenty-five (25) feet.
2. Appurtenances attached to a mobile home shall be provided with a minimum separation of twenty-five (25) feet from:
 - A. Any other attached appurtenance on an adjacent lot.
 - B. Any mobile home on an adjacent lot.
 - C. Any accessory building on an adjacent lot.
3. There shall be provided and maintained a minimum distance of ten (10) feet between any detached appurtenance and:
 - A. Any other detached appurtenance on the same lot.
 - B. Any mobile home on the same lot.
 - C. Any detached appurtenance on an adjacent lot.
 - D. Any mobile home on an adjacent lot.
4. There shall be provided and maintained a minimum distance of twenty-five (25) feet between any detached appurtenance and any necessary buildings on adjacent lots.
5. Mobile homes shall be separated from each other on opposing sides of public or private streets a minimum of forty-five (45) feet provided that in no event shall the required front yard be less than set forth in this chapter. No mobile home accessory use or appurtenance shall be permitted in the required mobile home lot front yard or in the required separation between mobile homes on opposing sides of public or private streets as provided in this chapter.

147.08 PARK PERIMETER GENERAL AREA REQUIREMENTS.

1. Each yard abutting on a perimeter public street shall be considered a front yard and shall be a minimum of fifty (50) feet in depth.
2. All other yards shall have a minimum depth of fifty (50) feet when adjacent to any other R District other than an R-MH District, and thirty-five (35) feet when adjacent to another R-MH District or when adjacent to any district other than an R District.
3. The yard requirement herein may be reduced by one-half (½) the width of any alley adjacent thereto provided further that a greater or lesser yard may be required where the Council deems necessary.
4. Where the boundary of a mobile home park directly abuts another use district, the Council may, where it is deemed necessary, require that an area a minimum of ten (10) feet in width be reserved along the perimeter of the mobile home park and within said area require the erection of a fence or wall six (6) feet in height of a material which will provide a significant visual and sound barrier, and/or screen plantings to be provided and maintained with a minimum height of eight (8) feet at maturity; or as otherwise required by the Council. Said barrier or plantings shall be maintained by the mobile home park.

147.09 SOIL AND GROUND COVER REQUIREMENTS. Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of preventing objectionable dust.

147.10 SITE DRAINAGE REQUIREMENTS. Adequate provisions shall be made to handle all surface and storm drainage water as determined by the City and in accordance with the City's storm water regulations.

147.11 LOT MARKERS. The limits of each mobile home lot shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of said rods flush with the finish lot grade. Location of lot limits on the ground shall be approximately the same as shown on the accepted plans. The degree of accuracy obtainable by working with a scale of the plan and then a tape on the ground is acceptable. Precise engineering of lot limits is not required either on the plans or on the ground. This is in no way to be construed as permitting lots of a lesser size than the required minimum or in permitting lesser yard or separation dimensions than set forth elsewhere in this chapter.

147.12 PARK AREAS FOR ACCESSORY USES. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. Nothing contained in this section shall be deemed as prohibiting the sale by an owner of a mobile home located on a mobile home stand and connected to the pertinent utilities. Any sales of mobile homes in place on the mobile home stand shall not in any way relieve any parties involved from complying with all the applicable regulations of this chapter.

147.13 REQUIRED RECREATION AREAS. In all parks, there shall be one or more recreation areas which shall be easily accessible to all park residents. The size of such recreation areas shall be based upon a minimum of two hundred and fifty (250) square feet for each lot. No outdoor recreation area shall contain less than twenty-five hundred (2500) square feet. Required recreation areas shall be computed in addition to any other common open space required elsewhere in this chapter. Recreation areas shall be so located as to be free of traffic hazards and should be easily accessible.

147.14 PARK STREET SYSTEMS.

1. General Requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public or private streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography.
2. Access. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of forty-two (42) feet where parking is permitted on both sides, or a minimum road pavement width of thirty-two (32) feet where parking is limited to one side. Where the primary entrance road is more than one hundred (100) feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be twenty-four (24) feet providing parking is prohibited at both sides.
3. Interior Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:
 - A. All streets, except minor streets, no parking twenty-four (24) feet.
 - B. Minor streets, no parking twenty two (22) feet.

- C. One-way minor street, no parking twelve (12) feet. [Acceptable only if less than five hundred (500) feet total length and serving less than twenty-five (25) mobile home lots.]
 - D. No outlet streets shall be limited in length to three hundred (300) feet and shall be provided at the closed end with a turn around having an outside roadway radius of at least forty (40) feet with no parking permitted. Where parking is permitted, the radius shall not be less than forty-eight (48) feet.
 - E. All streets of a mobile home park providing ingress and egress from an abutting public street or road shall have the location and design of intersection with said public street or road approved by the City Engineer and by any other governmental agency exercising control over such streets or roads.
 - F. If streets are to be dedicated to the City their construction shall meet the current design standards for public improvements adopted by the City.
4. Required Illumination of Mobile Home Park Street Systems. All parks shall be furnished with lighting units so spaced and equipped with approved fixtures placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night.
- A. All parts of the park street system -- 0.6 foot candle, with a minimum of 0.25 foot candle.
 - B. Potentially hazardous locations, such as major street intersections and steps or stepped ramps -- individually illuminated with a minimum of 0.4 foot candle.
5. Street Construction and Design Standards.
- A. Pavement. All streets shall be constructed with either hot mix asphaltic concrete or portland cement concrete with an approved curb to provide for drainage. Street surfaces shall be maintained free of cracks, holes and other hazards. All streets shall be constructed to specifications approved by the City.
 - B. Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than five percent (5%). City Engineer approval is required for grades over seven percent (7%). Maximum allowable is twelve percent (12%) and minimum allowable is five percent (5%). All street grades shall have prior approval of the City before commencing construction.

C. Intersections. Within one hundred (100) feet of an intersection, streets shall be at approximately right angles. A distance of at least one hundred twenty five (125) feet shall be maintained between centerline of off-set intersecting streets. Intersections of more than two streets at one point shall be avoided.

147.15 REQUIRED PARKING AREAS.

1. Parking areas shall be provided in all mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least 2 car spaces for each mobile home lot. No on-street parking shall be allowed.
2. Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve. All parking areas shall be constructed with a hard, smooth, dust-free surfacing consisting of either hot mix asphaltic concrete or portland cement concrete with minimum thickness to be approved by City Engineer.
3. Sufficient off-street parking and storage area shall be provided to meet anticipated requirements of park occupants for storing of boats, boat trailers, travel trailers, pickup coaches, truck tractors, trucks over $\frac{3}{4}$ -ton pickup size, and items of a similar nature. Said parking and storage area shall be in addition to parking required elsewhere in this section and parking and storage of vehicles and items listed in this subsection shall not be permitted in parking areas required elsewhere in this section.
4. Temporary mobile home storage may be permitted prior to permanent placement on the mobile home stand; such temporary storage of a mobile home shall not exceed 48 hours.

147.16 WALKS.

1. General Requirements. All parks shall be provided with safe, convenient, all season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient should be avoided. All sidewalks shall be constructed to specifications approved by the City.
2. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of four

feet and when constructed adjacent to the street curbing shall be a minimum of five feet.

3. Individual Walks. All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connected to a paved street. Such individual walks shall have a minimum width of two feet.

147.17 MOBILE HOME STANDS. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

1. The mobile home stand shall be constructed in such a manner that it will not heave, shift, or settle unevenly under the weight of the mobile home due to inadequate drainage, vibration or other forces acting on the superstructure. The mobile home stand shall be constructed at a minimum with 6" deep x 30" wide poured concrete ribbons with 6x6 #10 wire mesh reinforcing and of sufficient length to support all wheels and undercarriage supports of any mobile home that may be placed on the mobile home stand.

2. The mobile home stand shall be provided with anchors, arrowhead anchors, or other devices insuring the stability of the mobile home.

3. Tie-downs or anchors shall be placed at least at each corner of the mobile home stand to provide a readily accessible anchor for the mobile home and each shall be able to sustain a minimum tensile strength of twenty-eight hundred (2800) pounds.

4. Skirting of a permanent type material and construction shall be installed to enclose the open space between the bottom of a mobile home floor and the grade level of the mobile home stand and shall be so constructed to provide substantial resistance to heavy winds, thereby alleviating to the maximum extent possible, lifting action created on the underside of the mobile home by heavy winds.

5. Sufficient screened, ventilating area shall be installed in the skirting to supply the combustion requirements of heating units and other ventilating requirements of the mobile home. Provision shall be made for easy removal of a section large enough to permit access for inspection of the enclosed area under the mobile home and for repairs on sewer and water riser connections.

6. Skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

147.18 WATER SUPPLY. All mobile home stands and mobile home park facilities shall be connected to a City water supply and its supply used exclusively.

147.19 WATER DISTRIBUTION SYSTEM.

1. The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings, and other facilities requiring water.
2. All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements and shall be of a type and in locations approved by the City Water Department.
3. The water system shall be designed, constructed, and maintained according to specifications of the City Water Department and the City Building Department with a minimum water main size of 6" for adequate fire flows.

147.20 INDIVIDUAL WATER RISER PIPES AND CONNECTIONS.

1. Individual water riser pipes shall be located within the confined area of the mobile home stand as near to the center from front to back as possible and at a point where the water connection will approximate a vertical position, as near to the center of the stand as possible.
2. Water riser pipes shall extend at least to ground level. The pipe shall be at least three-fourths (3/4) inch. The water outlet shall be capped when a mobile home does not occupy the lot.
3. Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes from heaving and thawing actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.
4. A shut-off valve below the frost line shall be provided near the water riser pipe on each mobile home lot.
5. Underground stops and water valves shall be installed and connected to the water supply as required by Water Department regulations.

6. Water meter pits and water meters shall be installed for each mobile home and building using water. The meter pit shall be located in a manner free and clear from obstruction, i.e.: not located under mobile homes.

7. There shall be a water meter set at the connection point to the City mains.

147.21 SEWAGE DISPOSAL. An adequate and safe sewage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with State and local laws.

147.22 SEWER LINES. All sewer mains and laterals shall be constructed according to specifications of the City and connected to the City sewer system or a sewerage system approved by the City.

147.23 INDIVIDUAL SEWER CONNECTIONS.

1. Each mobile home stand shall be provided with at least a four inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand as near to the center from front to back as possible and so that the sewer connection to the mobile home drain outlet will approximate a vertical position, as near the center of the stand as possible.

2. The sewer connection shall have a minimum inside diameter of three inches, and the slope thereof shall not be less than one-fourth ($\frac{1}{4}$) inch per foot. The sewer connection shall consist of one pipe line only without any branch fittings. All joints shall be air and watertight.

3. All materials used for sewer and sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.

4. Provision shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least to ground level.

147.24 ELECTRICAL DISTRIBUTION SYSTEM. Every park shall contain an electrical wiring system consisting of necessary wiring, fixtures, and equipment which shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

147.25 MAIN ELECTRICAL POWER DISTRIBUTION LINES. Main electrical power lines should be constructed underground according to local electric utility specifications.

147.26 INDIVIDUAL ELECTRICAL CONNECTIONS.

1. Each mobile home stand shall be provided with an approved disconnecting device and over-current protective equipment. The minimum service per mobile home stand outlet shall be according to City specifications and/or the National Electrical Code.
2. Outlet receptacles at each mobile home stand shall be located as close to the center from front to back as possible and not more than twenty-five (25) feet from the over-current protective devices in the mobile home and a three pole, four-wire grounding type shall be used. Receptacles shall be of weather proof construction and configuration shall be in accordance with *Standard for Mobile Homes USAS A119.1* published by United States of America Standards Institute or similar equipment meeting the approval of the Electrical Code.
3. The mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug. However, where the calculated load of the mobile home is between fifty (50) and one hundred (100) amperes, a second fifty (50) ampere power supply assembly may be installed or an electrical service shall be provided by means of permanently installed conductors.
4. Where the calculated load exceeds one hundred (100) amperes or where a permanent feeder is used, the supply shall be by means of a four (4) wire installation according to City specifications.

147.27 REQUIRED GROUNDING. All exposed non-current carrying metal parts of mobile homes and all equipment having electrical connections shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as a ground for mobile homes or other electrical equipment.

147.28 SERVICE BUILDINGS AND COMMUNITY SERVICE FACILITIES.

1. General. The requirements of this section apply to service buildings, recreation buildings and other community service facilities, such as:

- A. Management offices, repair shops and storage areas.
 - B. Sanitary facilities
 - C. Laundry facilities
 - D. Indoor recreation areas
2. Required Community Sanitary Facilities. Every park shall be provided with the following emergency sanitary facilities. For each 100 mobile home lots, or fractional part thereof, there shall be one flush toilet and one lavatory for each sex. The building containing such emergency sanitary facilities shall be accessible to all mobile homes.
3. Structural Requirement for Building. All buildings other than mobile homes and their appurtenances shall be constructed in compliance with applicable codes and regulations.
4. Barbecue Pits, Fireplaces, Stoves and Incinerators. Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors.

147.29 REFUSE HAULING.

1. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. Refuse collection and disposal shall be in compliance with City regulations governing refuse disposal and recycling.
2. All refuse shall be stored in fly-tight, water-tight, rodent proof containers, which shall be located not more than 300 feet from any mobile home lot they serve. Containers shall be provided in sufficient number and capacity to store all refuse properly.
3. Refuse collection stands consisting of a holder or rack elevated at least twelve (12) inches above ground level, or an impervious slab at ground level shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.

4. All refuse containing garbage shall be collected at least three times weekly. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

147.30 INSECT AND RODENT CONTROL.

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the health authority.

2. Parks shall remain free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

3. Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.

4. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other offensive insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

147.31 NATURAL GAS SYSTEM. Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

147.32 FIRE PROTECTION.

1. The mobile home park area shall be subject to the rules and regulations of the City's Fire Department.

2. Mobile home parks shall be kept free of litter, rubbish and other flammable materials.

3. Portable fire extinguishers of a type approved by the Fire Department shall be kept in service buildings and at all locations designated by such fire prevention authority and shall be maintained in good operating condition.

4. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.

5. Fire hydrants shall be installed in the parks water system and located at such locations as determined by the Fire Department, Building Department, and Water Department.

147.33 RESPONSIBILITIES OF PARK MANAGEMENT.

1. The mobile home park owner shall operate the park in compliance with this chapter and regulations issued hereunder and shall maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

2. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.

3. The park management shall be responsible for the proper placement of each mobile home on its mobile home stand which includes securing its stability, installing all utility connections and required skirting. Required skirting shall be installed in accordance with the provisions of this chapter and within 30 days after initial occupancy unless prohibited by frozen ground, in which event such skirting shall be installed 30 days after ground becomes unfrozen.

4. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.

5. The park management shall notify the health authority immediately of any suspected communicable or contagious disease within the park.

147.34 RESPONSIBILITIES OF PARK OCCUPANTS.

1. The park occupant shall comply with all applicable requirements of this chapter and regulations issued hereunder and shall maintain the mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.

2. All regulations in this Code of Ordinances with respect to keeping of animals and pets shall apply.

147.35 RESTRICTION ON OCCUPANCY. A mobile home shall not be occupied for dwelling purposes in any mobile home park unless it is properly placed on a mobile home stand and connected to water, sewage and electrical utilities in accordance with the provisions of this chapter.

147.36 VARIATIONS AND EXCEPTIONS. When the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development of unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustice, the Council upon recommendation of the Planning and Zoning Commission may vary or modify such requirements so that the developer is allowed to develop the property in a reasonable manner, but, at the same time, the public welfare and interests of the City and surrounding area are protected and the general intent and spirit of these regulations are preserved.

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CHAPTER 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.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Permit Required
151.04 Duty to Trim Trees

151.05 Trimming Trees to be Supervised
151.06 Disease Control
151.07 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways with a forty (40) foot minimum between trees. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street right-of-way any fruit-bearing tree or any tree of the kinds commonly known as ash, cottonwood, poplar, box elder, Chinese elm, weeping willows, evergreen, silver maple, tree of heaven, catalpa, mulberry or pin oak.
(Ord. 639 – Feb. 10 Supp.)
4. Exceptions. City designed, installed and maintained streetscape projects developed on roadways featured in the Design Guidelines shall be exempt from the planting restrictions as outlined above in this chapter.
(Ord. 724 – Aug. 12 Supp.)

151.03 PERMIT REQUIRED. A Right-of-Way permit is required for the planting of trees in the parking or street right-of-way in accordance with City Code Section 139.09. The permit fee shall be set by resolution of the City Council. Exception: The insurance and bond requirements in 135.09 do not apply to home owners completing the work along the frontages of their own property.

151.04 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax. The City reserves the right to exempt, by resolution of the Council, specific and identified areas in which the City has invested in streetscape and landscaping enhancements. In areas exempted by the City, it shall specify in a written notice to the abutting property owner who shall maintain the area. This section shall be interpreted consistently with Section 135.10 of this Code of Ordinances.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.05 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.06 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.07 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

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

(Ord. 816 - Jan. 15 Supp.)

CHAPTER 153

GEOHERMAL WELL STANDARDS

153.01 Purpose	153.09 Permit Fee
153.02 Definitions	153.10 Permit Suspension and Revocation
153.03 Permit Required	153.11 Open Loop Systems Prohibited
153.04 Application Procedure	153.12 Testing of System
153.05 Material Requirements	153.13 Location of Geothermal Systems
153.06 Review and Approval Process	153.14 Abandonment of Geothermal Systems
153.07 Appeal Process	153.15 Regulation Conflict
153.08 Well Permits	153.16 Failure to Comply

153.01 PURPOSE. It is the purpose of this chapter to protect the health, safety and general welfare of the people of the City of Hiawatha by ensuring that the ground waters will not be polluted or contaminated. Due to the serious potential of adverse environmental impacts, this chapter will prohibit all open loop geothermal systems. It is also the intent of this chapter to allow for closed loop systems with the requirements contained in this chapter for the construction, reconstruction, repair and destruction of geothermal wells.

153.02 DEFINITIONS.

1. Annular Space – The space between the casing or well screen and the wall of the borehole or between drilling pipe and casing or between two separate strings of casing.
2. Aquifer – A subsurface water-bearing layer of soil, sand, gravel or rock that will yield usable quantities of water to a well.
3. Borehole – A hole drilled or bored into the earth, usually for exploratory or economic purposes; a hole into which casing, screen and other materials may be installed to construct a well.
4. Casing – An impervious, durable pipe placed in a borehole to prevent the walls of the borehole from caving, and to seal off surface drainage or undesirable water, gas or other fluids and prevent entrance into a well.
5. Drinking Water – Water which is intended for human consumption and other domestic uses, and is considered to be free of harmful chemicals and disease-causing microorganisms.
6. Environmental Impact Analysis – A document prepared by a Licensed Professional Engineer in the State of Iowa, which assesses environmental and social risks of constructing a geothermal system, and determining mitigation measures to address those risks.

7. Geothermal Borehole – A hole drilled or bored into the earth into which piping is inserted for use in a geothermal system.
8. Geothermal System – A mechanical system that uses the thermal properties of the Earth and/or ground water to heat or cool buildings. Geothermal systems include but are not limited to pipes, heat exchangers, wells, heat exchange fluids, fans and pumps. Systems are either open loop or closed loop.
9. Open Loop Reinjection Geothermal System – Ground water is pumped from a water well into a heat exchanger located in a surface building. The water drawn from the Earth is then pumped back into the aquifer through a different well or in some cases the same well, otherwise known as re-injection.
10. Open Loop Surface Discharge Geothermal System – Ground water is pumped from a water well into a heat exchanger located in a surface building. The ground water is discharged to a surface water body also known as pump & dump. In the heating mode, cooler water is returned to the Earth, while in the cooling mode warmer water is returned to the surface water body.
11. Closed Vertical Loop or Horizontal Geothermal System – A borehole extends beneath the surface. Pipes are installed with U-bends at the bottom of the borehole. The pipes are connected to the heat exchanger and heat transfer fluid is circulated through the pipes.
12. Ground Water – Water beneath the Earth's surface, that occurs between saturated soil and rock that supplies wells and springs.
13. Grout – A low permeability material that is emplaced in the space between the wall of the borehole and the casing of a well and, or, emplaced on the wall of the borehole. The emplacement of grout is to prevent the migration of water or fluid contaminants into and through the borehole. Grout shall consist of neat cement, high solids bentonite slurry, or hydrated bentonite chips.
14. Heat Exchanger – A device usually made of coils of pipe that transfers heat from one medium to another; for example, from water to air or water to water.
15. Heat Transfer Fluid – Any liquid used specifically for the purpose of transferring thermal energy from the heat source to another location.
16. Low Permeability Material – A geological unit of unconsolidated material (usually clay or till) or bedrock (usually shale) that is all or partially saturated, and having permeability low enough (10⁻⁷ cm/sec) to give water in the aquifer artesian head.

17. Material Safety Data Sheet (MSDS) – A form containing data regarding the properties of a particular substance. It is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point etc.) toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill handling procedures. The exact format of an MSDS can vary from source to source.
18. Major Geothermal System – A horizontal or vertical closed loop system that is located more than 20 feet below the ground surface. Any open loop reinjection system or open loop surface discharge system shall be considered a Major Geothermal System.
19. Minor Geothermal System – A horizontal closed loop system that is placed no more than 20 feet below the ground surface.
20. Permeability – The propensity of a material to allow fluid to move through its pores or interstices. Permeability is an important soil parameter when flow of water through soil or rock is a matter of concern.
21. Separation/Isolation Distances – The distance of a source of contamination from a surface drinking water source, a ground water source supply well, or any type of borehole.
22. Surface Water – Water located on the surface of the Earth in water bodies such as lakes, rivers, streams, ponds and reservoirs.
23. Tremie – A tubing string (typically about 2 to 3 inches in diameter) that is temporarily installed into the borehole during well construction. The tremie pipe is used for installing annular material such as filter pack sand and grout.
24. Water Supply Well – A well used by public water systems, or non-public use, for extracting ground water for human consumption.
25. Well – Any excavation that is drilled, cored, driven, dug, bored, augured, jetted, washed or is otherwise construction for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. “Well” does not include an open ditch, drain tiles, an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried, lateral geothermal heat exchange systems nor temporary dewatering wells such as those used during the construction of subsurface facilities only for the duration of the construction.

153.03 PERMIT REQUIRED. No person shall dig, bore, drill, replace, modify, repair or destroy a geothermal well or any other excavation that may intersect ground water without first applying for and receiving a permit from the City of Hiawatha, Iowa. A permit is required for the installation of all geothermal systems.

153.04 APPLICATION PROCEDURE. Applications for permits shall be made to the City of Hiawatha on approved forms and shall contain all such information as required on the form. The application with accompanying filing fee and supporting documents shall be submitted by the property owner, owner's representative, or well driller. Supporting documents are as follows:

1. Site plan including:
 - A. Property boundaries and easements of record.
 - B. Location of wells and loops with retraceable dimensions to property boundaries.
 - C. Location of test well, required with a Major Geothermal System.
 - D. Erosion control and site restoration plan.
 - E. Containment area for drilling effluent.
 - F. Note stating the distance between proposed system and the nearest open loop geothermal system if within 1,000 ft.
2. Test Reports:
 - A. Thermal Conductivity test.
 - B. Geotechnical report with boring logs.
3. Environmental Impact Analysis required with a Major Geothermal System. Address risks including but not limited to:
 - A. Atmospheric and noise emissions.
 - B. Clearing of vegetation.
 - C. Ground subsidence.
 - D. Surface water or groundwater pollution resulting from drilling effluents or heat transfer fluid.
 - E. Disruption of existing in-ground contaminants.
 - F. Fish or wildlife habitats on-site, if any.
 - G. Floodplains or wetlands on-site, if any.

- H. For open loop reinjection systems; Design models based on local soils, test bores and topography that support the rationale for an open loop design.
- 4. Product Submittals:
 - A. Material Safety Data Sheets.
 - B. Manufacturers' shop drawings for piping, grout, pumps, and leak detector.
 - C. Anticipated quantity of grout that will be used.
- 5. Certification of the well driller as required under Iowa Administrative Code 567-49 and 567-82.

153.05 MATERIAL REQUIREMENTS. All system materials and fluids shall meet or exceed requirements of Iowa Administrative Code 567.49. Geothermal piping shall have a 50-year warranty. Horizontal loops shall be installed with tracer wire. Heat transfer fluid used in exchanger lines must be a USP or food grade propylene glycol or calcium chloride solution. Ethylene Glycol will not be accepted. System shall include a pressure-based leak detector that will stop the system circulating pumps, should a leak occur.

153.06 REVIEW AND APPROVAL PROCESS.

- 1. Minor Geothermal Systems can be authorized by the Building Official upon review by the City Water Superintendent and City Engineer.
- 2. Major Geothermal Systems upon review by the Building Official, City Water Superintendent and City Engineer shall be submitted with recommendations to the Hiawatha City Council for approval.

153.07 APPEAL PROCESS. For Minor Applications denied by the Building Official the applicant may appeal to the Hiawatha City Council. Appeal for Major Geothermal systems denied by the City Council may be appealed to the Iowa district court.

153.08 WELL PERMITS. All proposed well drillers must obtain a permit from the Linn County Health Department and conform to Chapter 149 of the Iowa Administrative Code Section 567-49.29(455B).

153.09 PERMIT FEE. The fees for all geothermal work shall be set forth in Table 1-A as adopted by resolution of the Hiawatha City Council. The permit fee must be submitted with the application.

153.10 PERMIT SUSPENSION AND REVOCATION. The City of Hiawatha may suspend or revoke any permit issued pursuant to this chapter

whenever it finds that the permittee has violated any of the provisions of this chapter or has misrepresented any material fact in his/her/its application or, any supporting documents for such permit.

153.11 OPEN LOOP SYSTEMS PROHIBITED. Due to the serious potential adverse environmental impact with open loop systems, the following limitations shall apply:

1. Open loop surface discharge systems are prohibited.
2. Open loop reinjection systems are prohibited for use with one and two family dwellings to control density of penetrations into well aquifer.
3. Open loop reinjection water shall be used only for the geothermal system for which is it designed and permitted.
4. Open loop reinjection systems which pose an unacceptable risk to the City of Hiawatha wells as determined by the environment impact analysis or as determined by the City Engineer and Water Plant Superintendent shall be prohibited.

153.12 TESTING OF SYSTEM. Geothermal piping systems shall be tested hydrostatically at one and one half times the maximum system design pressure, but not less than 100 psi (689 kPa). The duration of each test shall be not less than 15 minutes. All geothermal systems must be checked by a licensed geothermal contractor, every year from the certification system date. Results shall be submitted to the Community Development Department on forms as adopted by resolution of the Hiawatha City Council. A pressure monitoring system shall be installed on all geothermal systems which will cause the system to be shut down if there is a pressure drop of the geothermal system fluid which would indicate an external leak in the system.

153.13 LOCATION OF GEOTHERMAL SYSTEMS. Loops shall be located within the property boundaries and not encroach on any easements of record. Major Geothermal Systems shall not be located within one thousand (1000) feet of a Water Supply Well. Minor Geothermal Systems shall not be located within two hundred (200) feet of a Water Supply Well.

153.14 ABANDONMENT OF GEOTHERMAL SYSTEMS. The procedure used for abandonment of geothermal systems must be the same as currently described in Chapter 39 of the Iowa Administrative Code for Plugging Abandoned Wells. The heat transfer fluid must be removed by a displacement with grout. The top of the borehole must be uncovered and capped with grout.

153.15 REGULATION CONFLICT. In the event any of the provisions of this chapter conflict with any State or Federal regulation, the State or Federal regulations will control.

153.16 FAILURE TO COMPLY. Violations of this chapter shall be punished as provided in Chapter 4 of The Code of Ordinances as a Municipal Infraction.

(Ch. 153 - Ord. 794 - Aug. 14 Supp.)

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CHAPTER 155

BUILDING CODE

155.01 International Building Code Adopted	155.17 Repeal of Section (Window Sills)
155.02 Amendments to the Building Code	155.18 Automatic Fire Sprinkler Systems
155.03 Work Exempt from Permit	155.19 Smoke Alarms
155.04 Work Exempt from Permit	155.20 Swimming Pools and Spas
155.05 Board of Appeals	155.21 Swimming Pools Barrier
155.06 Expiration	155.22 Swimming Pool Drainage Systems
155.07 Schedule of Permit Fees	155.23 Repeal of Exception "This Door To Remain Unlocked."
155.08 Valuation	155.24 Sewer Depth
155.09 Reinspection Fees	155.25 Exception (Backwater Valve)
155.10 Repeal Section - Certificate	155.26 Subsurface Landscape Irrigation Systems
155.11 Attic, Habitable	155.27 Frost Closure
155.12 Design Criteria	155.28 Slab On Grade Foundations
155.13 Exterior Wall Projections	155.29 Foundation Drainage Systems
155.14 Opening Protection	155.30 Code On File
155.15 Fire Protection of Floors	155.31 Condominium Conversions
155.16 Glazing Adjacent to Doors	155.32 Exterior Storage Containers Prohibited

155.01 INTERNATIONAL BUILDING CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Building Code of the City that certain Building Code known as the *International Building Code, 2015 Edition*, and *International Residential Code, 2015 Edition*, including *International Residential Code*, Appendix F Passive Radon Gas Controls Methods. This Chapter shall also adopt referenced Codes listed in Sections 101.4.1 through 101.4.7 as prepared and edited by the International Code Council, Inc., and the provisions of said Building Code shall be controlling in the construction of buildings and other structures and in all matters covered by said Building Code within the corporate limits of the City and shall be known as the Hiawatha Building Code.

155.02 AMENDMENTS TO THE BUILDING CODE. Certain sections and portions of sections of the *International Building Code and International Residential Code* are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

155.03 WORK EXEMPT FROM PERMIT. The Hiawatha Building Code is hereby amended by repealing Section R105.2 Building: Exception #1 and #2 of the *International Residential Code* and by replacing said Exceptions with new Exceptions as follows:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

2. The following repairs will be considered maintenance and will not require a building permit.
 - a. The replacement of up to two (2) windows, and/or one (1) exterior door within a one-year period when replaced with windows or doors of similar size, style and material, and no structural change is required for the framing of the rough opening for said windows or door.

155.04 WORK EXEMPT FROM PERMIT. The Hiawatha Building Code is hereby amended by deleting Item 2 from Section 105.2 of the *International Building Code*.

155.05 BOARD OF APPEALS. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Building Code shall be heard by the Board of Appeals (hereinafter “Board”) as set forth in Chapter 159 of this Code of Ordinances.

155.06 EXPIRATION. The Hiawatha Building Code is hereby amended by adding a new Section 105.5 to the *International Building Code*, and *International Residential Code*, as follows:

105.5.1 EXPIRATION. Every building permit issued under the provisions of the Code shall expire twelve (12) months from the date of issue, unless the application is accompanied by a construction schedule of specific longer duration, in which instance the permit may be issued for the term of the construction schedule. If the work has not been completed by the expiration date of the permit, no further work shall be done until the permit shall have been renewed by the owner or his or her agent and by payment of the renewal fee as set forth in Table 1-A SCHEDULE OF FEES as adopted by resolution of the Hiawatha City Council, and provided no changes have been made in plans or location. No permit shall be renewed more than once.

155.07 SCHEDULE OF PERMIT FEES. The Hiawatha Building Code is hereby amended by repealing Section 109.2 of the *International Building Code*, and Section R108.2 of the *International Residential Code*, and by replacing said sections with a new section as follows:

109.2 SCHEDULE OF PERMIT FEES. On buildings, structures or alterations requiring a permit, a fee for each permit shall be paid as set forth in Table 1-A SCHEDULE OF FEES as adopted by resolution.

155.08 VALUATION. The Hiawatha Building Code is hereby amended by adding a new Section 109.3.1 to the *International Building Code*, and Section R108.3.1 to the *International Residential Code*, as follows:

109.3.1 VALUATION. Valuation for the purpose of establishing permit fees for new construction, additions or alterations to existing buildings shall be determined by the Building Official from the HIAWATHA VALUATION SHEET as adopted by resolution of the City of Hiawatha City Council.

155.09 REINSPECTION FEES. The Hiawatha Building Code is hereby amended by adding a new Section 109.7 to the *International Building Code*, and Section R108.7 to the *International Residential Code*, as follows:

109.7 REINSPECTIONS. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection card is not posted or otherwise available on the work site, the property and building address are not properly posted, 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.

155.10 REPEAL SECTION - CERTIFICATE. The Hiawatha Building Code is hereby amended by repealing Section 110.3 Number (3) of the *International Residential Code*, and 111.2 Number (3) of the *International Building Code* and leaving said section number (3) blank.

155.11 ATTIC, HABITABLE. The Hiawatha Building Code is hereby amended by repealing the definition of Attic, Habitable in Section 202 of the *International Residential Code*.

155.12 DESIGN CRITERIA. The Hiawatha Building Code is hereby amended by inserting climate and geographical design criteria into Table R301.2 (1) of the *International Residential Code*, as follows:

Ground Snow Load	Wind Speed MPH	Seismic Design Category	Subject to Damage From:				Winter Design Temp	Ice Shield Under Layment Required	Flood Hazards		Air Freezing Index	Mean Annual Temp
			Weathering	Frost Line Depth	Termite	Decay			NFIP Adoption	FIRM Maps		
30 PSF	90	A	Severe	42"	Moderate-Heavy	Slight-Moderate	-5 F	Yes	1982	4/5/10	1784	48.9

155.13 EXTERIOR WALL PROJECTIONS. The Hiawatha Building Code is hereby amended by deleting footnote b. of Table R302.1(1) and footnote c. of Table R302.1(2) of the *International Residential Code*, and leaving said footnotes blank.

155.14 OPENING PROTECTION. The Hiawatha Building Code is hereby amended by repealing Section R302.5.1 of the *International Residential Code*, and by replacing said section with a new Section R302.5.1 as follows:

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches in thickness, solid or honeycomb-core steel doors not less than 1 3/8 inches thick, or 20-minute fire-rated doors.

155.15 FIRE PROTECTION OF FLOORS. The Hiawatha Building Code is hereby amended by repealing Section R302.13 of the *International Residential Code* and leaving said section blank.

155.16 GLAZING ADJACENT TO DOORS. The Hiawatha Building Code is hereby amended by repealing Sections R308.4.2 of the *International Residential Code*, and by replacing said section with a new Section R308.4.2 as follows:

R308.4.2 Glazing adjacent to doors. Glazing in an individual fixed or operable panel adjacent to a door where the nearest vertical edge of the glazing is within a 24 inch arc of either vertical edge of the door in a closed position and where the bottom exposed edge of the glazing is less than 60 inches above the floor or walking surface shall be considered to be a hazardous location.

Exceptions:

1. Decorative glazing.
2. Where there is an intervening wall or other permanent barrier between the door and the glazing.
3. Where access through the door is to a closet or storage area 3 feet or less in depth. Glazing in this application shall comply with Section R308.4.3.
4. Glazing that is adjacent to the fixed panel of patio doors.

155.17 REPEAL OF SECTION (WINDOW SILLS). The Hiawatha Building Code is hereby amended by repealing Section 1015.8 of the *International Building Code*, and Section 312.2.1 of the *International Residential Code*, and leaving said section blank.

155.18 AUTOMATIC FIRE SPRINKLER SYSTEMS. The Hiawatha Building Code is hereby amended by repealing Section R313 of the *International Residential Code*, and by replacing said section with a new section as follows:

SECTION R313 AUTOMATIC FIRE SPRINKLER SYSTEMS

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed throughout all attached townhouse dwelling units when any of the following conditions exist:

1. The townhouses are constructed in a group of more than four attached units.
2. Any individual townhouse dwelling unit of a structure with four or fewer attached townhouses has a floor area greater than 4000 square feet on any one story or greater than 8000 square feet of total floor area for all stories, excluding non-habitable areas separated from the rest of the building by a minimum of one-hour fire-resistive construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with NFPA 13D or Section P2904.

R313.2 One-and two-family dwellings automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in one-and two-family dwellings when the following conditions exist:

1. The one-or two-family dwelling has a floor area greater than 4000 square feet on any one story or greater than 8000 square feet of total floor area for all stories, excluding non-habitable areas separated from the rest of the building by a minimum of one-hour fire-resistive construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.

Exception: Two family homes separated as required for a townhouse shall have automatic fire sprinkler requirements as for townhouses.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing one-and two-family dwellings that do not have an automatic residential fire sprinkler system installed.

R313.2.1 Design and installation. Automatic residential fire sprinkler systems for one-and two-family dwellings shall be designed and installed in accordance with NFPA 13D or Section P2904.

R313.3 Alternative Methods. Maximum floor area square footages of Sections R 313.1 and R 313.2 may be increased by 25% for buildings or floors containing more than one egress door as specified in Section R311.2 or more than one vertical egress as specified in Section R311.4 or other approved alternate methods of building occupant egress enhancement.

155.19 SMOKE ALARMS. The Hiawatha Building Code is hereby amended by repealing Section R314.3 number (4) and Section R314.3.1 of the *International Residential Code* and leaving said sections blank.

155.20 SWIMMING POOLS AND SPAS. The Hiawatha Building Code is hereby amended by repealing Section 3109 of the *International Building Code* and by replacing said section with a new Section 3109 as follows:

**SECTION 3109
SWIMMING POOLS AND SPAS**

3109.1 General. The design and construction of pools and spas shall comply with the *International Swimming Pool and Spa Code, 2015 Edition*.

155.21 SWIMMING POOLS BARRIER. The Hiawatha Building Code is hereby amended by repealing Section 305.1 Exception 2 of the *International Swimming Pool and Spa Code* and leaving said exception blank.

155.22 SWIMMING POOL DRAINAGE SYSTEMS. Swimming pools shall be designed and constructed so as to provide for appropriate drainage of water resulting from overfilling, draining, and maintenance operations. The site plan for a proposed swimming pool shall indicate where pool drainage is to be directed in such a manner that:

1. Swimming pool drainage water shall be directed away from any structure foundation.
2. Ponding of surface water shall be avoided.

3. Swimming pool drainage water shall be de-chlorinated before being directed to available drainage tile or storm sewer systems. If the swimming pool water is not de-chlorinated, it must be directed to the sanitary sewer at a controlled flow rate approved by the City. Please Note: Discharge of chlorinated water to the storm water system would be a violation of the EPA Storm Water Discharge Regulations and could result in a Municipal Infraction for an illicit discharge.
4. Surface water shall not be discharged to any adjacent private property except upon drainage easements or established waterways shall not be altered so that upstream water flow is adversely affected.
5. Water flow shall be controlled to avoid excessive volume or velocity which could cause soil erosion or create other possible hazards.
6. Final graded lots shall comply with the grading plan and any terms of the memorandum of agreement for the approved subdivision.

155.23 REPEAL OF EXCEPTION “THIS DOOR TO REMAIN UNLOCKED.” The Hiawatha Building Code is hereby amended by repealing Section 1010.1.9.3, Exception #2 of the *International Building Code*, and leaving this section blank.

155.24 SEWER DEPTH. The Hiawatha Building Code is hereby amended by repealing Section P2603.5.1 of the *International Residential Code* and leaving said section blank.

155.25 EXCEPTION (BACKWATER VALVE). The Hiawatha Building Code is hereby amended by adding a new exception to Section P3008.1 of the *International Residential Code* as follows:

EXCEPTION: The requirements of this Section shall apply only at locations determined necessary by the City Engineer based on local conditions.

155.26 SUBSURFACE LANDSCAPE IRRIGATION SYSTEMS. The Hiawatha Building Code is hereby amended by deleting Section P3009.1 from the *International Residential Code* and inserting in lieu thereof the following:

P3009.1 Scope. The provisions of this Section shall be optional and for information only of the materials, design, construction and installation of subsurface landscape irrigation systems connected to nonpotable water from on-site water reuse systems.

155.27 FROST CLOSURE. The Hiawatha Building Code is hereby amended by deleting Section P3103.2 from the *International Residential Code* and inserting in lieu thereof the following:

P3103.2 Frost Closure. Where the 97.5-percent value for outside design temperature is 0°F or less, every vent extension through a roof or wall shall be not less than 3 inches in diameter. Any increase in the size of the vent shall be made inside the structure at a point not less than 1 foot below the roof or inside the wall.

155.28 SLAB ON GRADE FOUNDATIONS. The Hiawatha Building Code is hereby amended by deleting exceptions #1 and #2 in Section R403.1.4.1 of the *International Residential Code*, and replacing them with exception #1 as follows: Exception #3 to remain unchanged.

Exception:

1. Protection of freestanding accessory structures with an eave height of 10 feet or less shall not be required.

155.29 FOUNDATION DRAINAGE SYSTEMS. The Hiawatha Building Code is hereby amended by repealing Section 1805.4.3 of the *International Building Code* and by replacing said section with a new Section 1805.4.3 and adding a new Section R401.3.1 to the *International Residential Code*, respectively, as follows:

1805.4.3/R401.3.1 DRAINAGE DISCHARGES. The floor base and foundation perimeter drain shall discharge by gravity or mechanical means into an approved drainage system that complies with the following:

- (A) Sump pit located inside building. Exception: Sump pit may be omitted if drainage tile can be designed with natural fall and drain on same property if approved by the Building Official.
- (B) For each sump pit installed a pump discharge pipe shall be provided running continuous from a point directly outside the sump pit to the City storm sewer or other approved discharge location.
- (C) Pump discharge pipe shall be installed as per the requirements of the City of Hiawatha Plumbing Code with connections to City storm sewer as per City of Hiawatha Engineering Specifications.
- (D) Installation of sump pump is if one is found by the Building Official to be necessary. It shall be equipped to automatically provide for discharge of sump pit water outside the basement wall and above grade and/or approved by the City Engineer.

FPN: A sump pump will be considered to be necessary if water inside the sump pit will not recede to a level four inches

or more below the lowest basement floor surface by gravity or absorption into the earth within a reasonable period of time.

(E) The outlet line from the sump pump shall discharge a minimum of two (2) feet from the outside foundation wall and/or be approved by City Engineer.

(F) Where ground water conditions warrant, the Building Official may require additional drain tile as he/she deems necessary.

155.30 CODE ON FILE. An official copy of the Hiawatha Building Code hereby adopted, including a certificate by the Clerk as to its adoption and the effective date thereof, shall be on file in the Office of the Clerk in City Hall and shall be kept there on file, and copies shall be available for public inspection. Copies of this chapter shall be available in the Building Department Office. A copy of the Hiawatha Building Code hereby adopted shall also be placed in the collection of the Hiawatha Public Library for public reference.

155.31 CONDOMINIUM CONVERSIONS. For the purposes of condominium conversion, structures built prior to April 25, 2000 and thereafter converted to a horizontal property regime (condominium) are not required to be updated to comply with the building code in effect at the time of the conversion, except the following building code provisions shall be complied with:

- Fire Protection Systems
- Means of Egress
- Structural and Life-Safety concerns specifically noted

The Building Official may waive compliance with any or all of the above exceptions where he determines compliance to be unduly burdensome or not practical or reasonable given the nature of the structure.

155.32 EXTERIOR STORAGE CONTAINERS PROHIBITED.
(Repealed by Ordinance No. 856 – Jun. 16 Supp.)

(Ch. 155 - Ord. 825 – Apr. 15 Supp.)

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CHAPTER 156

PLUMBING CODE

156.01 Plumbing Code Adopted	156.11 Drinking Fountain Substitution
156.02 Amendments to Plumbing Code	156.12 Size of Meter and Building Supply Pipe
156.03 Conflicts	156.13 Water Service Pipe
156.04 International Fuel Gas Code	156.14 Cross Connection Control
156.05 Uniform Plumbing Code	156.15 Exception (Backwater Valve)
156.06 Permit & Fees Required	156.16 Frost Closure
156.07 Fee Refunds	156.17 Sand Interceptor Requirements
156.08 Violation	156.18 Subsurface Landscape Irrigation Systems
156.09 Board of Appeals	156.19 Code on File
156.10 Inspection and Testing of Backflow Prevention Assemblies	

156.01 PLUMBING CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Plumbing Code of the City that certain Plumbing Code known as the *International Plumbing Code, 2015 Edition*, as prepared and edited by the International Code Council, which code is hereby specifically incorporated by reference and shall be known as the Hiawatha Plumbing Code. The provisions of said Plumbing Code shall be controlling in the erection, installation, alterations, additions, repair, relocation, replacements, maintenance or use of any plumbing system within the corporate limits of the City.

156.02 AMENDMENTS TO THE PLUMBING CODE. Certain sections and portions of sections of the *International Plumbing Code*, are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this chapter.

156.03 CONFLICTS. If conflicts arise in requirements with regards to specifications of materials or methods between portions of this code, between this code and other local codes or between this code and applicable State or Federal requirements, the more stringent shall apply.

156.04 INTERNATIONAL FUEL GAS CODE. The Hiawatha Plumbing Code is hereby amended by adding a new Section 101.2.2 to the *International Plumbing Code* as follows:

101.2.2 The *International Fuel Gas Code, 2015 Edition*, as further amended is hereby adopted and shall be considered as part of this code.

156.05 UNIFORM PLUMBING CODE. The Hiawatha Plumbing Code is hereby amended by adding a new Section 105.2.2 to the *International Plumbing Code* as follows:

105.2.2 The *Uniform Plumbing Code, 2015 Edition*, is hereby approved as an equivalent method for complete plumbing systems. Use of the Uniform Plumbing Code is only for design professionals.

Exception: 1. Administrative regulations shall be as provided in the *International Plumbing Code*, as amended in this Chapter.

156.06 PERMIT & FEES REQUIRED. The Hiawatha Plumbing Code is hereby amended by repealing Section 106.6.2 of the International Plumbing Code, and replacing said section with a new Section 106.6.2 as follows:

106.6.2 The fees for all plumbing work shall be as set forth in Table 1-A as adopted by resolution of the Hiawatha City Council.

156.07 FEE REFUNDS. The Hiawatha Plumbing Code is hereby amended by deleting the words “[SPECIFY PERCENTAGE]” from Section 106.6.3 (2.) and (3.) of the *International Plumbing Code*, and replacing said words with “80 percent”.

156.08 VIOLATION. The Hiawatha Plumbing Code is hereby amended by adding a new Section 108.1.1 to the *International Plumbing Code*, as follows:

108.1.1 Penalties. Specifics of information for Section 108, Violations, shall be as set forth in City of Hiawatha Code of Ordinances Chapter 4.

156.09 BOARD OF APPEALS. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Plumbing Code shall be heard by the Board of Appeals (hereinafter “Board”) as set forth in Chapter 159 of this Code of Ordinances.

156.10 INSPECTION AND TESTING OF BACKFLOW PREVENTION ASSEMBLIES. The Hiawatha Plumbing Code is hereby amended by repealing Section 312.10 of the *International Plumbing Code* and replacing said section with a new section 312.10, as follows:

312.10 Inspection and testing of backflow prevention assemblies. Registration, inspection and testing of backflow prevention assemblies shall be in accordance with the Hiawatha Water Board Rules and Regulations Section 11 b.

156.11 DRINKING FOUNTAIN SUBSTITUTION. The Hiawatha Plumbing Code is hereby amended by repealing Section 410.4 of the *International Plumbing Code* and replacing said section with a new section 410.4, as follows:

410.4 Substitution. Where restaurants provide drinking water in a container free of charge, drinking fountains shall not be required in those restaurants. In other occupancies where drinking fountains are required, water dispensers shall be permitted to be substituted for the required number of drinking fountains.

156.12 SIZE OF METER AND BUILDING SUPPLY PIPE. The Hiawatha Plumbing Code is hereby amended by repealing Section 603.1 of the *International Plumbing Code*, and replacing said section with a new section 603.1, as follows:

603.1 Size of Meter and Building Pipe. No building supply pipe shall be less than one inch (25. mm) in diameter.

603.1.1 Remote Reader Conduit. All buildings using City water shall have installed a hard metal conduit starting within 12 inches of the water meter inside location. The conduit shall not have 90 degree right angle fittings. All bends must be sweeping to let wire feed through easily. All commercial, industrial and apartments over dwelling units shall install 3/4-inch conduit. All residential buildings dwelling units and less including single family homes shall have 1/2-inch conduit installed. The conduit shall end in a location with the other utility metering devices and be flush with the outside of the building.

603.1.2 Meter Clearances. There shall be suitable place for the meter, so as to keep it dry and clean with ready access at all times, and with a minimum clear work space of 30 inches deep by six feet high. All valves and fittings necessary to provide connection to meter shall be provided by the owner.

603.1.3 Protection of Meters and Equipment. No one shall in any way interfere with the proper registration of a water meter, and no one except an authorized employee of the Water Department shall break the seal of a meter, except the Water Department may grant written permits to plumbers in case of emergency to break such seal for draining pipes or stopping water leaks.

603.1.4 All water meters must be installed prior to requesting final inspections.

156.13 WATER SERVICE PIPE. The Hiawatha Plumbing Code is hereby amended by repealing Table 605.3 of the *International Plumbing Code* and replacing said table with a new table 605.3, as follows:

TABLE 605.3
WATER SERVICE PIPE

MATERIAL	STANDARD
Brass Pipe	ASTM B43
Copper or Copper-alloy tubing (Type K, WK, L, WL M or WM)	ASTM B75, B88, B251 and B447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F876 and F877, AWWA C904, CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked (PEX-AL-PEX)	ASTM F1281 and F2262, CSA B137.10
Cross-linked polyethylene/aluminum/high-density (PEX-AL-HDPE)	ASTM F1986
Ductile iron water pipe	AWWA C151/A21.51, AWWA C115/A21.15, Class 52
Polyethylene (PE) plastic pipe	ASTM D2239 and D3035, AWWA C901, CSA B137.11
Polyethylene (PE) plastic tubing	ASTM D2737, AWWA C901, CSA B137.1
Polyvinyl chloride (PVC) plastic pipe	ASTM D1785, D2241, D2672, CSA B137.3, AWWA C900 and C905
Stainless Steel pipe (Type 304/304L)	ASTM A312, ASTM A778
Stainless Steel pipe (Type 316/316L)	ASTM A312, ASTM A778

156.14 CROSS CONNECTION CONTROL. The Hiawatha Plumbing Code is hereby amended by adding a new Section 608.1.1 to the *International Plumbing Code*, as follows:

608.1.1 All backflow prevention assemblies connected to the Hiawatha water system shall be registered, tested and inspected in accordance with the Hiawatha Water Department Rules and Regulations Section 11b, as authorized by Hiawatha City Council.

156.15 EXCEPTION (BACKWATER VALVE). The Hiawatha Plumbing Code is hereby amended by adding a new exception to Section 715.1 of the *International Plumbing Code*, as follows:

EXCEPTION: The requirements of this Section shall apply only when it is determined necessary by the City Engineer based on local conditions.

156.16 FROST CLOSURE. The Hiawatha Plumbing Code is hereby amended by deleting Section 903.2 from the *International Plumbing Code*, and inserting in lieu thereof the following:

903.2 Frost Closure. Where the 97.5-percent value for outside design temperature is 0°F or less, every vent extension through a roof or wall shall be not less than 3 inches in diameter. Any increase in the size of the vent shall be made inside the structure at a point not less than 1 foot below the roof or inside the wall.

156.17 SAND INTERCEPTOR REQUIREMENTS. The Hiawatha Plumbing Code is hereby amended by adding the following new section 1003.5.1 as follows:

1003.5.1 A sand interceptor shall be required in all enclosed buildings which have doors which could allow driving, storing or loading a vehicle inside of a building.

156.18 SUBSURFACE LANDSCAPE IRRIGATION SYSTEMS. The Hiawatha Plumbing Code is hereby amended by deleting Section 1401.1 from the *International Plumbing Code*, and inserting in lieu thereof the following:

1401.1 Scope. The provisions of Chapter 14 shall be optional and for information only of the materials, design, construction and installation of subsurface landscape irrigations systems connected to nonpotable water from on-site water reuse systems.

156.19 CODE ON FILE. An official copy of the Hiawatha Plumbing Code hereby adopted, including a certificate by the Clerk as to its adoption and the effective date thereof, is on file in the office of the Clerk in City Hall and shall be kept there on file, and copies shall be available for public inspection. The Community Development Department shall furnish a copy of this Plumbing Code hereby adopted to the Hiawatha Public library.

(Chapter 156 - Ord. 826 – Apr. 15 Supp.)

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CHAPTER 157

ELECTRICAL CODE

157.01 ICC Electrical Code & National Electrical Code Adopted	157.08 Clear Space
157.02 Amendments to the Electrical Code	157.09 Receptacles
157.03 Permits & Fees Required	157.10 Counter Tops
157.04 Penalties	157.11 Paragraphs Added to Article 230
157.05 Electrical Board of Appeals	157.12 Uses Permitted
157.06 Nonmetallic-Sheathed Cable	157.13 Uses Not Permitted
157.07 Smoke Detectors and Carbon Monoxide Detectors	157.14 Remote Water Meter Reader Conduit

157.01 ICC ELECTRICAL CODE & NATIONAL ELECTRICAL CODE ADOPTED. Except as hereinafter amended, there is hereby adopted as the Electrical Code of the City of Hiawatha that certain Electrical Code known as the *2015 International Building Code* Appendix K, Administrative Provisions as promulgated by the International Code Council including the referenced *National Electrical Code, 2014 Edition*, as prepared and edited by the National Fire Protection Association, which codes are hereby specifically incorporated by reference and shall be known as the Hiawatha Electrical Code. The provisions of said Electrical Code shall be controlling in the installation, alterations, repairs, removals, renewals, replacements, connection, disconnection and maintenance of all electrical equipment within the corporate limits of the City. For the purpose of this Chapter, the term “electrical equipment” means all materials, wiring, conductors, fittings, devices, appliances, luminaires, signs and apparatus or parts thereof comprising an electrical system within a structure or facility.

157.02 AMENDMENTS TO THE ELECTRICAL CODE. Certain sections and portions of sections of the *National Electrical Code*, and *International Building Code* Appendix K, Administrative Provisions are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this Chapter.

157.03 PERMITS & FEES REQUIRED. The Hiawatha Electrical Code is hereby amended by adding this sentence to Section K103.1 of the *International Building Code* Appendix K, Administrative Provisions.

Permit fees shall be as established in Table 1-A by resolution of the City Council.

157.04 PENALTIES. Any person who fails to comply with the provisions of this code or who fails to carry out an order made pursuant to this code or violates any condition attached to a permit, approval or certificate shall be subject to enforcement and penalties as provided section 1.10 of the Code of

Ordinances or may be cited as a municipal infraction under chapter 4 of the Code of Ordinances.

157.05 ELECTRICAL BOARD OF APPEALS. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Electrical Code shall be heard by the Board of Appeals (hereinafter “Board”) as set forth in Chapter 159 of this Code of Ordinances.

157.06 NONMETALLIC-SHEATHED CABLE. The Hiawatha Electrical Code is hereby amended by deleting K111.4 of *2015 International Building Code* Appendix K, Administrative Provisions.

157.07 SMOKE DETECTORS AND CARBON MONOXIDE ALARMS. The Hiawatha Electrical Code is hereby amended by adding a new Section K111.8 to the *International Building Code* Appendix K, Administrative Provisions, as follows:

Section K111.8. When an electrical service is installed or replaced in a dwelling or multiple dwelling unit building, smoke alarms and carbon monoxide alarms shall be installed as required by the International Residential Code for each dwelling unit receiving power from the electrical service.

157.08 CLEAR SPACE. The Hiawatha Electrical Code is hereby amended by deleting Section 110.26 (B) to the *National Electrical Code*, in its entirety and adding the following:

Section 110.26 (B). CLEAR SPACES. For electrical equipment located in rooms that contain storage areas, the required working clearances as prescribed in this Article shall be maintained by providing approved rigid barriers and labels.

Exception 1: Within individual residential dwelling units.

Exception 2: Where barriers would obstruct exit pathways the authority having jurisdiction for enforcing this Code may grant an exception or approve an alternate method.

FPN: Barriers shall be a minimum of 36 inches in height, the full width of the required working area and meet the load requirements as prescribed by the Building Code for guardrails.

157.09 RECEPTACLES. The Hiawatha Electrical Code is hereby amended by adding an additional exception to Section 210.8 (A)(5) of the *National Electrical Code*, which shall read as follows:

Exception No. 2 to (5): The sump pump receptacle shall not be required to be GFCI protected. A single receptacle supplying a permanently installed sump pump, providing that the sump pump receptacle is permanently and clearly labeled “for sump pump use only” and providing there is at least one GFI protected duplex receptacle available for use within the room or area in which the sump pump receptacle is located.

157.10 COUNTER TOPS. The Hiawatha Electrical Code is amended by deleting portions of Section 210.52(C) of the *National Electrical Code*.

Delete Section 210.52 (C)(3) Peninsular Counter Spaces.

157.11 PARAGRAPHS ADDED TO ARTICLE 230.

1. The Hiawatha Electrical Code is hereby amended by adding a second paragraph to Section 230.26 of the *National Electrical Code*, as follows:

The point of attachment of service entrance for all structures shall be located at a point approved by the utility serving the premises and complying with other provisions of this article.

2. The Hiawatha Electrical Code is hereby amended by adding a second paragraph to Section 230.28 of the *National Electrical Code*, as follows:

Where a service mast is used for the support of service drop conductors, the service raceway shall be a minimum of 2" rigid galvanized steel conduit.

157.12 USES PERMITTED. The Hiawatha Electrical Code is hereby amended by repealing Section 334.10 (1) thru (5) of the *National Electrical Code*, and replacing it with a new Section 334.10 as follows:

Section 334.10. Uses Permitted. Type NM, Type NCM and Type NMS cables shall be permitted in the following:

- (1) One and two-family dwellings.
- (2) Multi-family dwelling structures containing not more than twelve (12) dwelling units, except as prohibited in Section 334.12. For the purpose of this section, multi-family dwelling structures are buildings that contain only dwellings and no other uses.
- (3) Structures and uses, accessory to dwelling units of numbers (1) and (2) above.

FPN: See Section 310.10 for temperature limitation of conductors.

157.13 USES NOT PERMITTED. The Hiawatha Electrical Code is hereby amended by adding an eleventh and twelfth condition to Section 334.12 (A) of the *National Electrical Code*, (Uses Not Permitted, Types NM, NMC and NMS cable) as follows:

Section 334.12 (A)

- (11) For commercial, educational, ceremonial or public uses.
- (12) Uses not specified in 334.10.

157.14 REMOTE WATER METER READER CONDUIT. The Hiawatha Electrical Code is hereby amended by adding a second paragraph to Article 725.8(b) of the *National Electrical Code*, as follows:

Article 725.8(b) 2nd paragraph

All buildings using City water shall have installed a metallic conduit starting within 12 inches of the water meter inside location. The conduit shall not have 90 degree right angle fittings. All bends shall be sweeping to let wire feed through easily. All commercial and industrial buildings and apartment buildings over 4-plex shall install $\frac{3}{4}$ inch conduit. All single family dwellings, duplexes, 3-plex and zero lot line dwellings shall have $\frac{1}{2}$ inch conduit installed. The conduit shall end with the other utility metering device(s) on the outside of the building.

(Chapter 157 - Ord. 827 – Apr. 15 Supp.)

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CHAPTER 158

MECHANICAL CODE

158.01 Mechanical Code Adopted
158.02 Amendments to the Mechanical Code
158.03 Conflicts
158.04 International Fuel Gas Code
158.05 Permit & Fees Required

158.06 Fee Refunds
158.07 Violation
158.08 Board of Appeals
158.09 Code on File

158.01 MECHANICAL CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Mechanical Code of the City that certain Mechanical Code known as the *International Mechanical Code, 2015 Edition*, as prepared and published by the International Code Council, which code is hereby specifically incorporated by reference and shall be known as the Hiawatha Mechanical Code. The provisions of said Mechanical Code shall be controlling in the erection, installation, alteration, repair, relocation, replacement, addition to, use, maintenance or removal of heating, ventilation, cooling or refrigerating systems, incinerators or other miscellaneous heat-producing or refrigerating appliances and in all matters covered by said Mechanical Code within the corporate limits of the City.

158.02 AMENDMENTS TO THE MECHANICAL CODE. Certain sections of the *International Mechanical Code*, are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this chapter.

158.03 CONFLICTS. If conflicts arise in requirements with regards to specifications of materials or methods between portions of this code, between this code and other local codes or between this code and applicable State or Federal requirements, the more stringent shall apply.

158.04 INTERNATIONAL FUEL GAS CODE. The Hiawatha Mechanical Code is hereby amended by adding a new Section 101.2.2 to the *International Mechanical Code* as follows:

101.2.2 The *International Fuel Gas Code, 2015 Edition*, as further amended is hereby adopted and shall be considered as part of this code.

158.05 PERMIT & FEES REQUIRED. The Hiawatha Mechanical Code is hereby amended by deleting Section 106.5.2 from the *International Mechanical Code*, and inserting in lieu thereof the following:

106.5.2 Fee Schedule. The fees for mechanical work shall be as set forth in Table 1-A, as adopted by resolution of the City of Hiawatha Council.

158.06 FEE REFUNDS. The Hiawatha Mechanical Code is hereby amended by deleting the words “[SPECIFY PERCENTAGE}” from Section 106.5.3 (2.) and (3.) of the *International Mechanical Code*, and replacing said words with “80 percent”.

158.07 VIOLATION. The Hiawatha Mechanical Code is hereby amended by adding a new Section 108.1.1 to the *International Mechanical Code*, as follows:

108.1.1 Violations. Specifics of information for Section 108 Violations shall be as set forth in City of Hiawatha Code of Ordinances Chapter 4.

158.08 BOARD OF APPEALS. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Mechanical Code shall be heard by the Board of Appeals (hereinafter “Board”) as set forth in Chapter 159 of this Code of Ordinances.

158.09 CODE ON FILE. An official copy of the Hiawatha Mechanical Code hereby adopted, including a certificate by the City Clerk as to its adoption and the effective date thereof, is on file in the office of the Clerk in City Hall and shall be kept on file; and copies shall be available in the Community Development Department for public inspection. The Community Development Department shall furnish a copy of the Mechanical Code hereby adopted to the Hiawatha Public Library.

(Chapter 158 - Ord. 828 – Apr. 15 Supp.)

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CHAPTER 159

BOARD OF APPEALS

159.01 Established
159.02 Membership
159.03 Ex-Officio Members
159.04 Appointment and Compensation
159.05 Quorum
159.06 Meetings
159.07 Appeals Process
159.08 Licensure Suspension, Revocation & Renewal

159.09 Recommendations to Council
159.10 Vote
159.11 Chairperson
159.12 Tests
159.13 Variances
159.14 Failure to Act
159.15 Finality of Decision and Necessary Vote

159.01 ESTABLISHED. There is hereby established a Board of Appeals, hereinafter called the Board, for the purpose of making a determination of any appeal arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and variances from the Building (Chapter 155), Electrical (Chapter 157), Fire (Chapter 160), Housing (Chapter 163), Mechanical (Chapter 158), or Plumbing (Chapter 156), or Property Maintenance (Chapter 164) Codes, provided that the granting of such variation would not increase the hazard to life or property. The Board will also have authority to license pipe layers pursuant to Chapter 130 of this Code of Ordinances.

159.02 MEMBERSHIP. Said Board shall initially consist of seven (7) members. One member of the Board shall be a building contractor registered with the City Building Department; one shall be a licensed electrical contractor or a licensed electrician; one shall be a licensed mechanical contractor or licensed mechanical journeyman; one shall be a licensed master plumber or a licensed journeyman plumber; and three shall be private citizens. All of the Board members shall have a place of business or residence located in the City and be qualified by experience and training to pass upon matters pertaining to Building, Electrical, Fire, Mechanical and Plumbing construction, provided such qualified candidates are available.

159.03 EX-OFFICIO MEMBERS. The Building Official or authorized representative shall be an ex-officio member without a vote and shall act as a Secretary of the Board. A "Fire Prevention Official," as designated by the Fire Chief, shall be an ex-officio member without a vote and shall provide technical expertise and interpretation in fire related and/or life safety appeals brought before the Board.

159.04 APPOINTMENT AND COMPENSATION. The Board shall be appointed by the Mayor subject to approval of the Council. Appointment of members shall be for staggered terms of three (3) years, with the terms of not more

than two (2) members to expire December 31 of any one year. All members shall serve without compensation.

159.05 QUORUM. A majority of the full membership of the Board shall constitute a quorum. Ex-officio members shall not be included in calculation of a quorum.

159.06 MEETINGS. The Board shall hold a regular meeting on the third Monday of each month unless there are no licensing, appeals or business on file for a hearing. All requests for hearings shall be submitted in writing to the Building Official by noon on the Monday preceding the regular meeting. A nominal fee of fifty dollars (\$50.00) shall be charged in appeals matters relating to Building, Electrical, Fire, Mechanical, Plumbing, or Property Maintenance Codes. The Board shall adopt rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official for appropriate distribution and filing.

159.07 APPEALS PROCESS.

1. Any person aggrieved by a written notice of the City issued in connection with any alleged violation of the Building, Electrical, Fire, Mechanical, Plumbing, or Property Maintenance Codes, of any applicable rule or regulation issued pursuant to the aforementioned Codes, may apply in writing to the Board for a reconsideration of such notice or order provided that such application is made within thirty (30) calendar days after the date of postmark of notice or proof of service.
2. Upon receipt of any appeal filed pursuant to this section, the matter shall be presented at the next regular or special meeting of the Board.
3. As soon as practicable after receiving a written appeal, the Board shall hold a public meeting to consider the appeal. The applicant shall be advised in writing of the time and place of such meeting at least seven (7) days prior to the date of the meeting. At such meeting, the applicant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, withdrawn or variance granted. The Board may, in its discretion, hold a public hearing on any matter brought before the Board.
4. The Board, by a majority vote, may sustain, modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Board shall observe the following conditions:
 - A. The Board, by a majority vote, may sustain, modify or withdraw the notice or order. In granting an extension or variance of any notice or order, the Board shall observe the following conditions:

(1) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

(2) That such an extension is in harmony with the general purpose and intent of the applicable Code in securing the public health, safety and general welfare.

B. The Board may grant a variance in a specific case and from a specific provision of the applicable Code subject to appropriate conditions and provided the Board makes specific findings of fact based on evidence relating to the following:

(1) That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order.

(2) That the effect of the application of the provisions would be arbitrary in the specific case.

(3) That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships in this arbitrary effect.

(4) That such a variance is in harmony with the general purpose and intent of the applicable Code in securing the public health, safety and general welfare.

5. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or to any portion thereof.

6. Enforcement of any notice or order issued under this Code shall be stayed during the duration of an appeal of the order, which is properly and timely filed.

159.08 LICENSURE SUSPENSION, REVOCATION, AND RENEWAL.

1. Suspension or Revocation. Prior to suspension or revocation of a license, at least fifteen (15) days' notice shall be given to the holder whose license is in question by certified mail addressed to holder's last known mailing address as shown on license records in the City's Community Development Department. Failure to receive such notice shall not constitute a defense. Said notice shall indicate time and place of the hearing and the general grounds for the contemplated suspension or revocation. The notice shall also advise the holder of his or her rights to appear at said hearing in person, or by counsel, for the purpose of presenting his or her defense.

2. **Renewal of Revoked License.** A person whose license has been revoked shall not apply for a new license within six (6) months after the revocation of the aforesaid. Said application shall be accompanied by a fee of \$50.00. The suspension or revocation of a license shall not entitle the holder to a refund of any part of the license for which he or she may have paid.

159.09 RECOMMENDATIONS TO THE COUNCIL. The Board shall make recommendations from time to time to the Council for appropriate legislation with respect to licensing of Pipe Layer contractors, or with respect to the Building, Electrical, Fire, Mechanical, Plumbing, and Property Maintenance Codes.

159.10 VOTE. All decisions or recommendations of the Board shall require a majority vote of the full membership of the Board.

159.11 CHAIRPERSON. The Board shall elect annually one of its members as Chairperson. The Chairperson shall preside at all meetings of the Board or designate an acting Chairperson to preside in his or her place.

159.12 TESTS. All tests shall be given on times and dates to be determined by the Board.

159.13 VARIANCES. Alternative materials and methods and other variances from the Building, Electrical, Fire, Mechanical, Plumbing, and Property Maintenance Codes granted by the Board shall be effective only for the specific case presented in appeal and only for one year following approval.

159.14 FAILURE TO ACT. In case an appellant or applicant does not exercise his or her rights, or fails to begin construction or operations or occupancy in accordance with any appeal, variance or permit granted by the Board within one year, such variance or permit shall be null and void.

159.15 FINALITY OF DECISION AND NECESSARY VOTE. All decisions and findings of the Board on any license or appeal for a variance, after a public hearing, shall in all instances be the final administrative decision and shall be subject to judicial review as provided by law. The concurring vote of the majority of the full membership of the Board shall be necessary to reverse an order, requirement, decision or determination of the Building Official, or decide in favor of the applicant on any matter upon which it is required to pass under this Code or to effect a variance in such Code.

(Chapter 159 - Ord. 766 – Mar. 14 Supp.)

CHAPTER 160

FIRE CODE

160.01 Purpose	160.21 Fire Hydrant Installation
160.02 Adoption of 2015 International Fire Code	160.22 Clearance to Building
160.03 Fees	160.23 Construction Documents
160.04 Amendments to Fire Code	160.24 Qualifications
160.05 Title	160.25 Pump and Riser Room Separation
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160.01 PURPOSE. The purpose of this chapter is to prescribe regulations governing conditions hazardous to life and property from fire, hazardous materials, or explosion.

160.02 ADOPTION OF 2015 INTERNATIONAL FIRE CODE. Thereby is hereby adopted by the City that certain Code known as the *International Fire Code, 2015 Edition*, including Appendix B, E, F, G and I, as prepared and edited by the International Code Council, Inc. thereof, and the whole thereof, save and except such portions as are hereafter deleted, modified or amended; and the same is hereby adopted and incorporated as fully as if set out in full herein; and the provisions thereof shall be controlling within the limits of the City effective January 1, 2015. Appendix C and D in the *International Fire Code, 2015 Edition*, will be used as a reference guide

160.03 FEES. Fees for inspections, re-inspections, plans reviews, acceptance testing, permits and other services related to enforcement of this Code shall be established by the City Council by resolution and paid to the City.

160.04 AMENDMENTS TO FIRE CODE. Certain sections and portions of sections of the *International Fire Code, 2015 Edition*, are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this chapter.

160.05 TITLE. The Hiawatha Fire Code is hereby amended by repealing section 101.1 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

101.1 Title. These regulations shall be known as the Hiawatha Fire Code, hereinafter referred to as “this code”.

160.06 PERMIT APPLICATIONS. The Hiawatha Fire Code is hereby amended by repealing Section 105.2 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

105.2 Application. Application for a permit required by this code shall be made to the Fire Code Official in such form and detail as prescribed by the Fire Code Official. Applications for permits shall be accompanied by such plans as prescribed by the Fire Code Official. Application for an operational permit shall be submitted with all required information not less than 14 days prior to the event requiring a permit.

160.07 REQUIRED OPERATIONAL PERMITS. The Hiawatha Fire Code is hereby amended by repealing Section 105.6, of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

105.6 Required operational permits. The Fire Code Official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.8.

105.6.1 Amusement buildings.

105.6.2 Carnivals and fairs.

105.6.3 Explosives.

105.6.4 Flammable and combustible liquids.

105.6.5 LP-gas.

105.6.6 Open burning.

105.6.7 Pyrotechnic special effects material.

105.6.8 Temporary membrane structure and tents.

160.08 REQUIRED CONSTRUCTION PERMITS. The Hiawatha Fire Code is hereby amended by repealing Sections 105.7.1 through 105.7.6 of the *International Fire Code, 2015 Edition*, by replacing said sections with the new sections, as follows:

105.7.1 Automatic fire-extinguishing systems.

105.7.2 Fire alarm and detection systems and related equipment.

105.7.3 Flammable and combustible liquids.

105.7.4 LP-Gas.

105.7.5 Standpipe systems.

105.7.6 Temporary membrane structures and tents.

160.09 INSPECTIONS. The Hiawatha Fire Code is hereby amended by repealing Section 106.2 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

106.2 Inspections. The Fire Code Official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals. All reports of such inspections shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The Fire Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues subject to the approval of the governing body. The Fire Code Official at their discretion shall send plans to an outside agency for review. The Fire Code Official shall choose the plans review agency. The applicant shall pay all fees associated with the plan review directly to the outside agency. A certificate of occupancy shall not be issued until the review fees have been paid.

160.10 BOARD OF APPEALS. The Hiawatha Fire Code is hereby amended by repealing Section 108 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Fire Code shall be heard by the Board of Appeals (hereinafter "Board") as set forth in Chapter 159 of this Code of Ordinances.

160.11 VIOLATION PENALTIES. The Hiawatha Fire Code is hereby amended by repealing Section 109.4 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

109.4 Violation penalties. Any person, firm or corporation violating any of the provisions of the Code shall be deemed guilty of a misdemeanor, and 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 provisions of this Code is committed, continued, or permitted and upon conviction of any such violations such person shall be punished in a manner provided in Chapter 4 of the Code of Ordinances.

160.12 FAILURE TO COMPLY. The Hiawatha Fire Code is hereby amended by repealing Section 111.4 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

111.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$750 dollars or more than \$5,000 dollars per day.

160.13 OPEN FLAME COOKING DEVICES. The Hiawatha Fire Code is hereby modified by repealing Section 308.1.4 of the *International Fire Code, 2015 Edition*, and replacing said section with the new section, as follows:

308.1.4 Open-flame cooking devices. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. Townhouses as defined by the International Building Code.

160.14 CEILING CLEARANCE. The Hiawatha Fire Code is hereby modified by adding an exception to Section 315.3.1 of the *International Fire Code, 2015 Edition*, as follows:

Exception: There are no height limitations for storage on shelves against a fixed wall in nonsprinklered areas of a building.

160.15 BUILDING EVACUATION. The Hiawatha Fire Code is hereby modified by adding a section to section 401 of the *International Fire Code, 2009 Edition*, as follows:

401.9 Building evacuation. Upon activation of the building fire alarm system or upon notification by other means of detecting and reporting unwanted fire, all building occupants shall promptly evacuate the building. Building employees and tenants shall implement the appropriate emergency plan and procedures. Exception: When the emergency evacuation plan, as approved by the fire code official, does not require the immediate total evacuation of the building.

160.16 EMERGENCY EVACUATION DRILL FREQUENCY. The Hiawatha Fire Code is hereby amended by repealing Section 405.2 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure. Fire and evacuation drills in Group E occupancies, excluding daycares and preschools shall be conducted in accordance with Section 100.31 of the Code of Iowa. Emergency evacuation/fire drills shall be conducted at least four times a year. Not less than two drills shall be conducted between July 1 and December 31 of each year and not less than two drills shall be conducted between January 1 and June 30 of each year.

160.17 IDENTIFICATION OF INTERIOR DOORS. The Hiawatha Fire Code is hereby modified by adding a section to section 504 of the *International Fire Code, 2015 Edition*, as follows:

504.4 Identification of Interior Doors. The Fire Code Official may require that certain interior doors be identified. The Fire Code Official shall approve the type, size, and location of the sign.

160.18 ADDRESS IDENTIFICATION DURING CONSTRUCTION. The Hiawatha Fire Code is hereby amended by adding Section 505.3, as follows:

505.3 Address identification during construction. All new commercial and residential buildings under construction shall have plainly visible addresses from the street. The temporary address sign shall be approved by the Fire Code Official. Additional address signage may be required at the discretion of the Fire Code Official.

160.19 FIRE SPRINKLER SYSTEM & STANDPIPE SYSTEM SUPPORT. The Hiawatha Fire Code is hereby amended by adding Section 507.5.1.1, as follows:

507.5.1.1 Fire Sprinkler System & Standpipe System Support. A fire hydrant shall be located no more than 100 feet from a fire sprinkler or standpipe system connection on hard surface, easily accessible by fire apparatus and meeting the approval of the Fire Code Official.

160.20 CLEAR SPACE AROUND HYDRANT. The Hiawatha Fire Code is hereby amended by repealing section 507.5.5 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

507.5.5 Clear space around hydrants. A 5-foot clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved, as measured from the center of the hydrant.

160.21 FIRE HYDRANT INSTALLATION. The Hiawatha Fire Code is hereby amended by adding the following sections reference fire hydrant installation. The sections shall read as follows:

507.5.7 Fire hydrant Installation. Fire hydrants within the City of Hiawatha shall be installed in accordance with the Hiawatha Water Department Rules and Regulations, the applicable Metro Standards and with regard to the following.

507.5.7.1 Fire hydrant outlet direction. All fire hydrants shall be positioned so that the five (5) inch Storz connection is facing the street or driveway accessible to fire department apparatus.

507.5.7.2 Fire hydrants threads. All new fire hydrants within the limits of the City of Hiawatha shall have National Standard Threads (NST) on the two and one-half (2 1/2) inch connections and the five (5) inch connection will have a Storz connection.

507.5.7.3 Fire hydrant flow. The minimum flow requirements for a water main serving a fire hydrant, is the rate of water flow, at a residual pressure of twenty pounds per square inch (20 psi) and for a specified duration, as specified in appendix B of this code.

507.5.7.4 Fire hydrant height. Fire hydrants shall be installed a minimum of eighteen (18) inches from the nominal ground level to the center of the lowest water outlet.

160.22 CLEARANCE TO BUILDING. The Hiawatha Fire Code is hereby amended by repealing section 603.4.2.1.2 of the *International Fire Code, 2015 Edition*, by replacing said section with the new section, as follows:

603.4.2.1.2 Clearance to building. Portable outdoor gas-fired heating appliances shall be located at least 10 feet from building or per manufacturer recommendations which must be provided upon request to Fire Code Official.

160.23 CONSTRUCTION DOCUMENTS. The Hiawatha Fire Code is hereby amended by adding sections 901.2(a) and 901.2(b), as follows:

901.2 (a) Water based fire protection systems. Working plans submitted to the fire department for water based fire protection systems shall be stamped and approved by a qualified person to be in compliance with applicable NFPA standards and the Hiawatha Fire Code. Any changes to the working plans shall be approved by a qualified person. A qualified person shall have a minimum National Institute for Certification in Engineering Technologies [NICET] Level III certification for Automatic Sprinkler System Layout or a licensed engineer with experience in life safety system design. Other qualifications may be approved by the Fire Code Official.

901.2 (b) Fire alarm systems. Working plans submitted to the fire department by a qualified person for fire alarm systems shall be stamped and approved by a qualified person to be in compliance with applicable NFPA standards and the Hiawatha Fire Code. Any changes to the working plans shall be approved by a qualified person. A qualified person shall have a minimum National Institute for Certification in Engineering Technologies [NICET] Level III certification for Fire Alarm Systems or a licensed engineer with experience in life safety system design. Other qualifications may be approved by the Fire Code Official.

160.24 QUALIFICATIONS. The Hiawatha Fire Code is hereby amended by adding sections 901.2.2, as follows:

901.2.2 Qualifications. For the installation, inspection and maintenance of water-based fire protection systems and fire alarm systems, the contractor must be certified by the State Fire Marshal's Office. When requested by the Fire Code Official, the contractor must provide a copy of their certificate.

160.25 PUMP AND RISER ROOM SEPARATION. The Hiawatha Fire Code is hereby amended by adding section 901.4.7, as follows:

901.4.7 Pump and Riser Room Separation. Fire pump and automatic fire sprinkler system riser rooms shall be separated from electrical room and have no electrical panels inside the rooms other than the outlets required for the use of the fire sprinkler system or fire alarm panel. The fire pump and automatic fire sprinkler system riser rooms shall have an exterior access door.

Exception: Non-mixed use R-2 Occupancies or approval by the Fire Code Official.

160.26 AUTOMATIC FIRE SPRINKLER SYSTEMS. The Hiawatha Fire Code is hereby amended by repealing Section 903.2.8.1 of the *International Fire Code, 2015 Edition*, and by replacing said section with a new section as follows:

903.2.8.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed throughout all attached townhouse dwelling units when any of the following conditions exist:

1. The townhouses are constructed in a group of more than four attached units.
2. Any individual townhouse dwelling unit of a structure with four or fewer attached townhouses has a floor area greater than 4,000 square feet on any one story or greater than 8,000 square feet of total floor area for all stories, excluding non-

habitable areas separated from the rest of the building by a minimum of one-hour fire-resistive construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.

903.2.8.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with NFPA 13D or Section P2904.

903.2.8.1.2 One and two-family dwellings automatic fire sprinkler systems. An automatic residential fire sprinkler system shall be installed in one and two-family dwellings when the following conditions exist:

1. The one or two-family dwelling has a floor area greater than 4,000 square feet on any one story or greater than 8,000 square feet or total floor area for all stories, excluding non-habitable areas separated from the rest of the building by a minimum of one-hour fire-resistive construction and containing smoke or heat detection interconnected with the dwelling unit smoke detectors.

Exception: Two family homes separated as required for a townhouse shall have automatic fire sprinkler requirements as for townhouses.

Exception: An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing one and two-family dwellings that do not have an automatic residential fire sprinkler system installed.

903.2.8.1.3 Design and installation. Automatic residential fire sprinkler systems for one and two-family dwellings shall be designed and installed in accordance with NFPA 13D or Section P2904.

903.2.8.1.4 Alternative Methods. Maximum floor area square footages of Sections R 313.1 and R 313.2 may be increased by 25% for buildings or floors containing more than one egress door as specified in Section R311.4 or other approved alternate methods of building occupant egress enhancement.

160.27 EXISTING SPRINKLER SYSTEMS MONITORING. The Hiawatha Fire Code is hereby amended by adding section 907.7.5.3, as follows:

907.7.5.3 Existing sprinkler systems monitoring requirements. Existing sprinkler systems shall have all valves controlling the sprinkler system and water flow electrically supervised and monitored by an approved UL listed Central Station in accordance with sections 903.4 and 903.4.1 within one year from receiving notice unless otherwise approved by the Fire Code Official.

160.28 FIRE EXTINGUISHER SIZE. The Hiawatha Fire Code is hereby amended by adding the following sentence to the end of section 906.3 of the *International Fire Code, 2015 Edition*, as follows:

The minimum size and rating of any required portable fire extinguisher for Class A, Class B, or Class C hazard shall be 5 lb. 2-A, 10-B C.

160.29 FIRE ALARM CONTROL PANELS AND FIRE ALARM ANNUNCIATOR PANELS. The Hiawatha Fire Code is hereby amended by adding section 907.1.4, as follows:

907.1.4 Fire Alarm Control Panel and Fire Alarm Annunciator Panels. Installation of fire alarm control panels and fire alarm annunciator panels shall be installed in accordance with section 907.1.5.1 through 907.1.5.5.

907.1.4.1 Fire Alarm Panel Height. Installation of fire alarm panels shall not exceed 6 feet in height measured from the floor to the top of the panel.

Exception: Panel height may be altered by the Fire Code Official.

907.1.4.2 Number of Fire Alarm Control Panels in Buildings. Only one listed fire alarm control panel shall be allowed per building and shall lock in the alarm until the system is reset and shall not be canceled by the operation of an audible – alarm silencing switch. This control panel shall only receive alarm signals from fire protection equipment.

907.1.4.3 Combination Fire/Security Alarm System Panels. A listed combination fire/security alarm system panel that meets all the requirements of this code and amendments may be permitted by approval of the Fire Code Official. The fire/security panel shall be capable of providing a signal that can differentiate between the fire and security alarm.

907.1.4.4 Password/PIN Protection Prohibited. Fire alarm control panels and/or fire alarm annunciator panels that require a password/PIN to silence an alarm/supervisory/trouble signal and/or to reset an alarm/supervisory/trouble signal shall be prohibited.

907.1.4.5 Fire Alarm Annunciator Panels. The Fire Code Official can require the addition of fire alarm annunciator panels based on the size of building and access to the building. These panels shall meet the requirements of sections 907.1.4 and 907.4.2.

160.30 EXISTING FIRE ALARM SYSTEMS MONITORING. The Hiawatha Fire Code is hereby amended by adding section 907.7.5.2, as follows:

907.7.5.2 Existing fire alarm systems monitoring requirements. Existing fire alarms systems that are currently not monitored by an approved UL listed Central Station shall become monitored within 1 year from receiving notice in accordance with section 907.7.5 unless otherwise approved by the Fire Code Official.

160.31 CARBON DIOXIDE ALARM. The Hiawatha Fire Code is hereby amended by adding section 908.8, as follows:

908.8 Carbon dioxide alarm. Existing buildings containing or using liquid carbon dioxide shall provide a single station audible carbon dioxide alarm for each habitable enclosed area that has components of the operating system located within the room and/or within the ceiling space of the room.

160.32 FDC SIZE. The Hiawatha Fire Code is hereby amended by adding section 912.8, as follows:

912.8 FDC Size. Minimum fire department connection size shall be 2 ½" National Standard Thread.

160.33 OVERCROWDING. The Hiawatha Fire Code is hereby amended by adding section 1004.10, as follows:

1004.10 Overcrowding. Overcrowding and admittance of persons beyond the approved capacity in a place of assembly are prohibited. The Fire Code Official with assistance from the police department, upon finding overcrowding conditions or obstructions in aisles, passageways, or other means of egress, or upon finding a condition which constitutes a serious menace to life, is authorized to cause performance, spectacle, or entertainment to be stopped until such condition or obstruction is corrected.

160.34 EXIT SIGNS. The Hiawatha Fire Code is hereby amended by adding sections 1013.7, as follows:

1013.7 Additional Exit Signs. Exit signs may be required at the discretion of the Fire Code Official to clarify an exit or exit access.

160.35 SEIZURE OF FIREWORKS. The Hiawatha Fire Code is hereby amended by adding sections 5601.7.1, as follows:

5601.7 Seizure of fireworks. It shall be unlawful for any person, or entity, to possess, store, to offer for sale, sell at retail or use or explode any fireworks, except as allowed by State law and/or City Ordinance. It shall be unlawful for any person, or entity, to use or explode any fireworks on any City owned or leased property without a permit approved City Council.

The Fire Code Official may issue an Operational Permit for Explosives and/or Pyrotechnic Special Effects Materials for the use of fireworks by artisans in pursuit of their trade in accordance with the Fire Code. Every such use or display shall be handled by a competent operator approved by the Fire Code Official and after proper investigation, not be hazardous to property or endanger any person.

The Fire Code Official shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of the section.

(Sec. 160.35 – Ord. 886 – Dec. 17 Supp.)

160.36 INFRACTIONS. The Fire Code Official are herewith authorized to issue and deliver citations on forms prepared and approved by the City Attorney's Office to person accused of violation any of the provisions of this code.

160.37 SEVERABILITY. If any section, provision or part of the Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

160.38 EFFECTIVE DATE. This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted shall be in full force and effect after its final passage, approval and publication, as provided by law.

(Ch. 160 - Ord. 829 – Apr. 15 Supp.)

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CHAPTER 161

FLOOD PLAIN REGULATIONS

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161.01 STATUTORY AUTHORITY. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

161.02 FINDINGS OF FACT.

1. The flood hazard areas of the City of Hiawatha are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
3. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Iowa Department of Natural Resources.

161.03 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.

161.04 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. Development does not include minor projects or routine maintenance of existing buildings and facilities as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve grading.
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, floodproofing and flood plain management regulations.

14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including

utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

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 161.14(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. “Minor projects” means small development activities, except for filling, grading, and excavating valued at less than \$500.

20. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after July 7, 1987.

21. “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.

22. “Official Flood Plain Zoning Map” means the Flood Insurance Rate Maps (FIRM) for Linn County and Incorporated Areas, City of Hiawatha, Panels 19113C0283D, 0287D, 0291D, dated April 5, 2010, which were prepared as part of the Flood Insurance Study for Linn County.

23. “Principally above ground” means at least 51 percent of the actual cash value of the structure, less land value, is above ground.

24. “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.

25. “Routine maintenance of existing structures” means repairs necessary to keep a structure in a safe and habitable condition that do not

trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- C. Basement sealing;
- D. Repairing or replacing damaged or broken window panes;
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

26. "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.

27. "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 of 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.

28. "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.

29. "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. Substantial damage also includes flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

30. "Substantial improvement" means any improvement to a structure which satisfies any 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.

C. The cumulative cost of any repairs or improvements undertaken over a period of five years equals or exceeds fifty percent of the market value of the structure.

All additions constructed after the FIRM date shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

31. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

32. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

161.05 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the official zoning map as being within the boundaries of the Floodway, Floodway Fringe, General Flood Plain and Shallow Flooding Districts shown on the Official Flood Plain Zoning Map, and said map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be part of this chapter. The Official Zoning Map is on file in the office of the

Clerk. The Flood Insurance Study for the City is attached to and made a part of the Official Flood Plain Zoning Map.

161.06 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the zoning districts 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 Zoning Administrator shall make the necessary interpretation. Any person contesting the location of the district boundary shall be given a reasonable opportunity to present his or her case and submit technical evidence.

161.07 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.

161.08 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.

161.09 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.

161.10 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the flood plain districts or land uses permitted within such districts 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.

161.11 SEVERABILITY. If any section, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

161.12 ESTABLISHMENT OF ZONING 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 Districts (SF).

The boundaries are 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.

161.13 FLOODWAY DISTRICT.

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 materials or equipment, excavation, or alteration of a watercourse.

A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

D. Residential uses such as lawns, gardens, parking areas and play areas.

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 may be permitted only upon issuance of a Conditional Use Permit by the Board of Adjustment as provided for in Section 161.22. 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, 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 or 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 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 stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

161.14 FLOODWAY FRINGE DISTRICT. 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 i) be adequately anchored to prevent flotation, collapse or lateral movement of the structure, ii) be constructed with materials and utility equipment resistant to flood damage, and iii) be constructed by methods and practices that minimize flood damage.

2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basements, 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 and issuance of a Conditional Use Permit, where existing topography, street grades, or other factors preclude elevating by fill. In such case, 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 buildings 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 floodproofed to such level. When floodproofing is utilized, a professional engineer or architect licensed in the State of Iowa shall certify that the floodproofing methods used are in accordance with accepted standards of practice for withstanding the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum, 1988) to which any structures are floodproofed shall be maintained by the Zoning 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 licensed professional engineer or architect to 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 that 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 resist 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 anchored to resist flotation, collapse or lateral movement. Factory-built homes must be anchored in accordance with State law, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

(1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one additional tie per side;

(2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

(4) Any additions to factory-built homes shall be similarly anchored.

B. Factory-built homes that are placed or substantially improved within Zone(s) A of the FIRM on sites:

(1) Outside of a factory-built home park or subdivision;

(2) In a new factory-built home park or subdivision;

(3) In an expansion to an existing factory-built home park or subdivision; or

(4) In an existing factory-built home park or subdivision on which a factory-built home has incurred "substantial damage" as the result of a flood

shall be elevated on a permanent foundation such that the lowest floor of the factory-built home is elevated one foot above the base

flood elevation and is securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A of this subsection.

C. Factory-built homes to be placed or substantially improved on sites in an existing factory-built home park or subdivision within A Zones on the FIRM that are not subject to the preceding provisions shall be elevated so that either:

(1) The lowest floor of the factory-built home is one foot above the base flood elevation; or

(2) The factory-built home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection A of this subsection.

6. Utility and Sanitary Systems.

A. All new and replacement sanitary sewer 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 three feet above the 100-year flood elevation.

B. On site waste disposal and water systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

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 three feet above the 100-year flood elevation.

D. Utilities such as gas and 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 within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

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 development 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 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 floodproofed 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 161.14(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 and are not ready for highway use must satisfy requirements of Section 161.14(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.

161.15 GENERAL FLOOD PLAIN DISTRICT.

1. Permitted Uses. The following shall be permitted within the General Flood Plain District to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not require placement of structures, factory-built homes, fill or other obstruction; 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 161.22. 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 District (Section 161.13).

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 District (Section 161.14).

161.16 SHALLOW FLOODING DISTRICT.

1. Permitted Uses. All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District.

2. Performance Standards. The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions.

A. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the Rate Map above the crown of the nearest street.

B. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the Rate Map.

161.17 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 insure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to insure that all necessary permits have been obtained from federal, state or local governmental agencies (such as the Section 404 of the Federal Water Pollution Control Act) including approval when required from the Department of Natural Resources for floodplain construction.
3. Verify and maintain a record of (i) the elevation (in relation to North American Vertical Datum, 1988) of the lowest floor of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been floodproofed.
4. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
5. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this chapter.
6. Submit to the Federal Emergency Management Agency an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.
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.

161.18 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to initiation of 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.

161.19 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. Where 100-year elevation data has not been provided in the Flood Insurance Study, a comparable analysis by another governmental agency, or as prepared by a licensed professional engineer in the State of Iowa shall be submitted by the applicant.
5. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Such other information as the Administrator deems reasonably necessary for the purpose of this chapter.

161.20 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 provisions and 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 conditional uses or variances except as directed by the Board of Adjustment.

161.21 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, licensed in the State of Iowa, that the finished fill, building floor elevations, floodproofing or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

161.22 CONDITIONAL USES, APPEALS AND VARIANCES.

1. The Zoning 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.

2. 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.

3. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration 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 papers constituting the record upon which the action appealed from was taken.

4. 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. No variance shall be granted for any development within the Floodway District which would result in any increase in floods during the occurrence of the 100-year flood. 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. 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.

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 Zoning 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.

5. 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 161.24.

161.23 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES IS BASED. In passing upon applications for conditional uses or requests 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 lands 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 community.
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. Such other factors which are relevant to the purpose of this chapter.
13. 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.

161.24 CONDITIONS ATTACHED TO CONDITIONAL USES OR VARIANCES. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Conditional Uses or 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 modification, 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 purposes of this chapter.
5. Floodproofing measures shall be designed consistent with the flood protection elevation or the particular area, flood velocities, durations, rate of rise, hydrostatic and hydronamic 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 licensed professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
6. 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.

161.25 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Conditional Uses or Variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred) or imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy a violation.

161.26 NONCONFORMING USES.

1. A structure or the use of a structure or land 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. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

B. No structural alteration, addition, or repair to any nonconforming structure over the life of the structure shall exceed 50 percent of its value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.

C. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for twelve (12) months.

D. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

E. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

F. Except as provided in subsection E, any use which has been permitted as a Conditional Use or Variance shall be considered a conforming use.

161.27 AMENDMENTS. The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification to this chapter shall be undertaken without prior approval from the Department of Natural Resources.

(Ch. 161 - Ord. 655 - Feb. 10 Supp.)

[The next page is 841]

CHAPTER 162

STORM WATER RUNOFF CONTROL

162.01 Purpose	162.13 Detention Facilities in Floodplains
162.02 Other Permits	162.14 Flows from Upland Areas
162.03 Definitions	162.15 Preliminary and Final Plat Requirements
162.04 Applicability	162.16 Drainage and Detention Design Standards
162.05 Design Storm Event	162.17 Rooftop, Parking Lot and Other Detention Storage
162.06 Detention of Excess Storm Water Runoff	162.18 Certification and Maintenance
162.07 Discharge Rate	162.19 Safety Features
162.08 Discharge Velocity	162.20 Administration
162.09 Emergency Spillway	162.21 Variances
162.10 Freeboard	162.22 Special Use Permit
162.11 Joint Development of Control Systems	162.23 Official Maps and Profiles
162.12 Early Installation of Control Systems	162.24 Interpretation

162.01 PURPOSE. The purpose of this chapter is to diminish threats to public health and safety caused by the runoff of excessive storm waters, reduce the possibilities of hydraulic overloading of the storm sewer system, reduce economic losses to individuals and the community at large, enhance broader social orderly development, and prevent victimizations and fraud. The provisions of this chapter further supplement:

1. Subdivision Regulations. The subdivision, layout, and improvement of lands located within the corporate limits of the City.
2. Excavating and Grading Regulations. The excavating, filling, and grading of lots and other parcels or areas.
3. Building Construction Regulations. The construction of buildings and the drainage of the sites on which those structures are located, to include parking and other paved areas.
4. Storm Water Drainage Systems. The design, construction, and maintenance of storm water drainage facilities and systems.

162.02 OTHER PERMITS. Before starting any construction regulated by this chapter, an applicant shall comply with the requirements set forth in other applicable chapters of this Code of Ordinances with respect to the submission and approval of preliminary and final subdivision plats, improvement plans, building and zoning permits, inspections, appeals and similar matters, along with those set forth in this chapter and as may be required by State statutes and the regulations of any Department of the State of Iowa.

162.03 DEFINITIONS. For the purposes of this chapter, the following definitions are adopted:

1. “Base flood elevation” means the elevation of delineating the flood level having a one-percent probability of being equaled or exceeded in any given year (also known as the 100-year flood), as determined from Flood Insurance Rate Maps (FIRMs) or the best available information.
2. “Capacity of a storm drainage facility” means the maximum capability of a storm drainage facility to convey storm water flows without causing damage to public or private property; and, in the case of a pipe, without surcharging.
3. “Channel” means a natural or manmade open watercourse with definite bed and banks which periodically or continuously contains moving water; or which forms a connecting link between two bodies of water.
4. “Compensatory storage” means an artificially excavated volume of storage within a floodplain used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.
5. “Conduit” means any channel, pipe, sewer, or culvert used for the conveyance or movement of water, whether open or closed.
6. “Design standards for public improvements” means standards formally adopted by the City to which all designs, and the resulting public improvements, must conform.
7. “Detention basin” means a facility constructed or modified to restrict the flow of storm water to a prescribed maximum rate, and to concurrently detain the excess waters that accumulate behind the outlet.
8. “Detention storage” means the temporary detaining or storage of storm water in storage basin, on rooftops, in streets, parking lots, school yards, parks, open space, or other areas under predetermined and controlled conditions, with the rate of drainage therefrom regulated by appropriately installed devices.
9. “Development” means the change or improvement of any parcel of land for residential, commercial, industrial, institutional, recreational, or public utility purpose, said change or improvement to include but not be limited to erection of a new structure; expansion of an existing structure; construction of a new parking area; expansion of an existing parking area; or construction of a new access drive.

10. “Discharge” means the rate of outflow of water from any source.
11. “Drainage area” means the area from which water is carried off by a drainage system, i.e. a watershed or catchment area.
12. “Dry bottom detention basin” means a basin designed to be completely drained after having provided its planned detention of runoff during a storm event.
13. “Excess storm water runoff” means the volume and rate of flow of storm water discharged from an urbanized drainage area which is or will be in excess of that volume and rate which occurred before urbanization.
14. “Fifty-year, 24-hour storm” means a precipitation event of 24-hours’ duration, having a two percent chance of occurring in any one year.
15. “Floodplain” means the special flood hazard lands adjoining a watercourse, the surface elevation of which is lower than the base flood elevation and is subject to periodic inundation.
16. “Hydrograph” means a graph showing, for a stream or conduit, the runoff flowrate time.
17. “One hundred-year, 24-hour storm” means a precipitation event of 24-hours’ duration, having a one percent chance of occurring in any one year.
18. “Peak flow” means the maximum rate of flow of storm water at a given point in a channel or conduit resulting from a predetermined storm or flood.
19. “Retention basin” means a structure or feature designed to retain storm water over a period of time, with its release being positively controlled over a longer period of time than in a detention basin.
20. “SCS method” means a technique for calculating storm water runoff volume and peak flow described in Soil Conservation Service (SCS) Technical Release 55.
21. “Special use” means all conditional uses or accessory uses and any use not previously defined or contemplated in this chapter or in the Zoning Ordinance.
22. “Storm water drainage facility” means any element in a storm water drainage system which is made or improved by man.
23. “Storm water drainage system” means all means, natural or manmade, used for conducting storm water to, through, or from a

drainage area to the point of final outlet, including but not limited to any of the following: open and closed conduits and appurtenant features, canals, channels, ditches, streams, swales, culverts, streets, and pumping stations.

24. “Storm water runoff” means the waters derived from precipitation within a tributary drainage area, flowing over the surface of the ground or collected in channels or conduits.

25. “Ten-year storm” means a precipitation event having a ten percent chance of occurring in any one year.

26. “Ten-year storm runoff” means the storm water runoff having a ten percent probability of occurring on any one year.

27. “Time of concentration” means the elapsed time for storm water to flow from the most distant point in a drainage area to the outlet or other predetermined point.

28. “Unprotected channel” means a channel which receives storm water discharge and which is not paved, rip-rapped, or otherwise improved by addition of manmade materials so as to reduce the potential for erosion.

29. “Urbanization” mean the development, change, or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

30. “Water body” means any natural or artificial pond, lake, reservoir, or other area which ordinarily or intermittently contains water and which has a discernible shoreline.

31. “Watercourse” means any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, or banks.

32. “Wet bottom detention basin” means a basin designed to retain a permanent pool of storm water after having provided its planned detention of runoff during a storm event.

162.04 APPLICABILITY. This chapter applies to any new development, subject to the following conditions:

1. Detention Storage Required. The City retains the right to require detention storage in all cases in which the proposed development will

generate sufficient excess runoff from the design storm to adversely affect the carrying capacity of the receiving water body or water course.

2. 1 CFS/acre Runoff. New developments generating less than 1 cubic foot per second (CFS)/acre runoff for the design storm shall not be required to provide detention storage, unless condition in subsection 1 is applicable.

162.05 DESIGN STORM EVENT. Storage capacity of detention facilities and discharge rates therefrom shall be such that the runoff from the “after fully developed area” shall not exceed the rate of runoff generated by the development area prior to development during the 5-year frequency storm. Storage capacity/volume shall be adequate to store the excess runoff generated by the fully developed area up to and including the 100-year rainfall event.

(Ord. 532 – Sep. 03 Supp.)

162.06 DETENTION OF EXCESS STORM WATER RUNOFF. The increased storm water runoff resulting from the proposed development shall be detained by the provision of appropriate dry-bottom reservoir(s); by temporary storage on flat roofs, parking lots, or streets; or by other acceptable techniques. Capacity will be sufficient to control excess flows from the design storm.

162.07 DISCHARGE RATE. Peak discharge rates from detention storage facilities shall not exceed the maximum pre-development peak discharge rate as calculated under Section 162.06.

162.08 DISCHARGE VELOCITY. Detention facilities shall discharge storm water at a non-erosive velocity as measured in the unprotected channel. The non-erosive velocity shall be determined through consultation of appropriate handbooks and manuals; as approved by the City. Protected channels receiving detention discharge shall incorporate features to reduce velocity to non-erosive levels at the point such discharge enters the unprotected channel.

162.09 EMERGENCY SPILLWAY. Emergency spillways shall be provided to permit the safe passage of runoff generated from rainfall events in excess of the 100-year rainfall event. Emergency spillways shall be designed on the assumption that the pipe outlet is discharging at full capacity for the spillway elevation.

162.10 FREEBOARD. Detention storage areas shall have adequate capacity to contain the storage volume of tributary storm water runoff with at least one foot of freeboard above the water surface during the 100-year rainfall event. Top of spillway elevations shall be one foot below the freeboard elevation.

162.11 JOINT DEVELOPMENT OF CONTROL SYSTEMS. Storm water control systems may be planned in coordination by two or more property owners as long as the potential for damage from storm water is not increased at intervening locations.

162.12 EARLY INSTALLATION OF CONTROL SYSTEMS. Storm water control measures shall be installed as soon as possible during the course of site development. A schedule of construction shall be submitted by the owner(s)/developer(s) prior to initiation of construction to the City.

162.13 DETENTION FACILITIES IN FLOODPLAINS. If detention storage is provided within a floodplain, only the net increase in storage volume above that which naturally existed on the floodplain shall be credited to the development. No credit will be granted for volumes below the base flood elevation at that location unless compensatory storage is also provided.

162.14 FLOWS FROM UPLAND AREAS. The total drainage area must be used in calculating the allowable release rate. The required storage volume will be based on the project area only, with extraneous flows from upland areas being by-passed or discharged via overflow spillways or other devices.

162.15 PRELIMINARY AND FINAL PLAT REQUIREMENTS. Accompanying the preliminary and final plats of each proposed subdivision or any applicable construction there shall be furnished information consistent with the requirements of the City's *Design Standards for Public Improvements*. All computations, plans, and specifications related to the implementation of this chapter must be prepared and sealed by a Professional Engineer registered in the State of Iowa.

162.16 DRAINAGE AND DETENTION DESIGN STANDARDS. All subdivisions and other proposed improvements which fall under the applicability of requirements of Section 162.04 shall be required to incorporate design features in accordance with City Standards as defined in the Unified Development Code adopted by the City. Variation from these standards will be permitted only upon submittal of a petition describing in detail the rationale for the proposed design with subsequent review by the City Engineer and approval from the Council.

(Ord. 532 – Sep. 03 Supp.)

162.17 ROOFTOP, PARKING LOT, AND OTHER DETENTION STORAGE. Designs for rooftop detention storage, parking lot storage, and detention storage in underground tanks, surface swales, oversized storm sewers, or other facilities shall be submitted to the City Engineer for approval.

162.18 CERTIFICATION AND MAINTENANCE. Detention facilities must be designed in accordance with City Standards as defined in the Unified Development Code adopted by the City. The growth of obnoxious weeds, the creation of conditions which support the growth of mosquitoes and other insects, and the decrease in available storage by accumulated sediments shall all be controlled. The cleanup of accumulated debris, flotsam, and other materials after runoff events have subsided shall be assured. Assignment of responsibility for certifying and maintaining facilities serving more than one lot or property holding will be documented and recorded by appropriate covenants to property deeds unless responsibility is formally assigned to and accepted by a public body.

1. **Certifications.** The development owner (equitable titleholder) of a privately owned detention storage facility ("Facility") must file with the City Clerk a certification signed by a licensed Iowa professional engineer ("Certification"). The Certification must certify the Facility's current storage volume and release rate, as well as the storage volume and release rate for which the Facility was initially designed. A newly constructed Facility shall be certified at the completion of the construction of that Facility. For those Facilities located on a lot for which a certificate of occupancy is issued, the construction of that Facility shall be deemed completed when the first certificate of occupancy is issued for that lot.

2. **Maintenance Responsibility.** The development owner (equitable titleholder) shall be responsible for all future grading, repairs, and maintenance to the said storm drainage and storm water facilities subject to the following conditions:

- A. That said development owner (equitable titleholder) shall protect, defend and hold the City, harmless from any and all damages or claims for damages that might arise or accrue as a result of flooding, erosion from flooding, deposits of sediment in said areas.

- B. The development owner (equitable titleholder) shall to not place fill material, to erect no buildings, obstructions, or other improvements on the area reserved for private storm water purposes.

- C. The development owner (equitable titleholder) shall provide a re-certification by a Licensed Iowa Professional Engineer, every subsequent five years. A facility that is exclusively constructed, located and maintained on a paved surface is exempt from the re-certification requirements of this chapter. The certification shall include the following:

(1) The storm water facility's storage volume, as approved by the City, has not decreased.

(2) The storm water facility's release rate, as approved by the City, has not increased.

3. Corrective Measures. If deficiencies are found by the inspector, the development owner (equitable titleholder) shall be required to take the necessary measures to eliminate nuisances and correct structural deficiencies within a reasonable amount of time. If the development owner (equitable titleholder) fails to do so, the City may cause the work to be completed and shall collect the cost therefore from the development owner (equitable titleholder) taking appropriate action as necessary.

162.19 SAFETY FEATURES. Designs of detention facilities shall incorporate safety features; particularly at inlets, outlets, on steep slopes, and at any attractive nuisances. These features shall include, but not limited to, fencing, hand rails, lighting, steps, grills, signs, and other protective or warning devices.

162.20 ADMINISTRATION. The administration of this chapter shall be the responsibility of the Building Official and the City Engineer.

1. Creation:

A. The City of Hiawatha Storm Water Advisory Committee is hereby created.

2. Members:

A. The Storm Water Advisory Committee will consist of three (3) members. Members shall be residents of the City of Hiawatha and shall serve without compensation. Members will be qualified by knowledge or experience to act in matters pertaining to the development of storm water policies. Members shall not hold any elected office in City government.

3. Removal of Members:

A. Members of the Storm Water Advisory Committee may be removed by the City Council for such cause as the City Council may determine necessary.

4. Duties:

A. The Storm Water Advisory Committee will have such duties as set forth in this chapter or as prescribed by the City Council. Specifically the duties will include:

- (1) Develop and recommend storm water policies.
- (2) Advise City Council in regards to needed storm water capital improvement projects.
- (3) Review any public input regarding storm water drainage or erosion control.
- (4) Make such reports to the City Council as may be requested from time to time.
- (5) Recommend best management practices for development of storm water management and water quality.

5. Meetings:

- A. Meetings will be scheduled quarterly. All meetings are open to the public. Meetings may be cancelled if there are no agenda items.

162.21 VARIANCES. No variance shall be issued without the review and recommendation of the Planning and Zoning Commission and approval of the Council.

162.22 SPECIAL USE PERMIT. No special use permit shall be issued without the prior concurrence of the City Engineer and approval by the Council.

162.23 OFFICIAL MAPS AND PROFILES. Responsibility for all changes to official maps and profiles is conferred to the City Engineer.

162.24 INTERPRETATION. In the interpretation and application of this chapter, the provisions expressed herein shall be held to be the minimum requirements and shall be liberally construed in favor of the City; and shall not be deemed a limitation or repeal of any other powers granted by the Code of Iowa.

(Ch. 162 – Ord. 879 – Dec. 17 Supp.)

[The next page is 852.1]

CHAPTER 163

HOUSING CODE

163.01 Purpose	163.11 Definitions
163.02 International Property Maintenance Code Adopted	163.12 Weeds
163.03 Amendments to the Property Maintenance Code	163.13 Insect Screens
163.04 Authority for Enforcement	163.14 Single Occupant
163.05 Registration and Fees	163.15 Heat Supply and Occupiable Work Spaces
163.06 Plans of Inspection	163.16 Safety Controls
163.07 Interference with the Code Enforcement Officer	163.17 Receptacles
163.08 Unsafe Structures and Equipment	163.18 Smoke Alarms
163.09 Right to Appeal	163.19 Code on File
163.10 Failure to Comply	

163.01 PURPOSE. The purpose of this Chapter is to designate the responsibilities of persons for maintenance of structures, equipment and exterior property within the City, to define nuisances as a result of the failure to perform such maintenance and to provide for the abatement of such nuisances in order to provide for the safety and preserve the health and welfare of the citizens of the City.

163.02 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Housing Code of the City of Hiawatha that certain Code known as the *International Property Maintenance Code, 2015 Edition*, First Printing, as prepared and edited by the International Code Council, Inc., and the provisions of said Property Maintenance Code shall be controlling in maintaining minimum requirements and standards of structures and properties within the corporate limits of the City and shall be known as the Hiawatha Housing Code.

163.03 AMENDMENTS TO THE PROPERTY MAINTENANCE CODE. Certain sections and portions of sections of the *International Property Maintenance Code*, are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this chapter. Sections Amended: The following sections are amended by the addition of the following information.

163.04 AUTHORITY FOR ENFORCEMENT. The City Administrator shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement. Any person designated by the City Administrator to enforce this chapter shall be known as the Code Enforcement Officer.

163.05 REGISTRATION AND FEES. The Hiawatha Housing Code is hereby amended by repealing Section 103.5 of the *International Property Maintenance Code*, and by replacing said section with a new section, as follows:

Section 103.5 Registration and Fees

1. Registration Required. No person shall operate a rental dwelling unit, rooming house, congregate housing or independent group residence unless the person has first registered such rental dwelling unit, rooming house, congregate housing or independent group residence with the City. There is a onetime registration fee for all rental properties; fee shall be established by resolution of the City Council. Failure to pay the registration fee within thirty (30) days following occupancy of the dwelling unit, rooming house, congregate housing or independent group residence may result in the registration fee being assessed as costs against the property for collection in the same manner as a property tax.
2. Duration of Registration. Such registration shall remain in effect until there occurs a change in ownership or designation of agents of the rental dwelling unit, rooming house, congregate housing or independent group residence. In such event, the owner, operator or agent of such property shall register such property with the City within (60) days of such change in ownership. Failure to comply will result in a code violation with an investigation fee in addition to the registration fee; fee shall be established by resolution of the City Council.
3. Registration Form. Registration shall not be in effect unless the owner, operator or agent has first made application on an application form provided by the City. At the time of registration, the owner, operator or agent shall designate an agent for the service of process who is a resident of the State of Iowa.
4. Inspection and Investigation Fees. Inspection and investigation fees shall be established by resolution of the City Council. Failure to pay any inspection or investigation fee within thirty (30) days following the date of the inspection or investigation may result in the inspection or investigation fee being assessed as costs against the property for collection in the same manner as a property tax.

163.06 PLANS OF INSPECTION. The Hiawatha Housing Code is hereby amended by repealing Section 104.2 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

Section 104.2 Plans of Inspection.

1. A plan for the regular inspection of all rental units, rooming houses, congregate housing, and independent group residences.
2. A plan for the inspection of all residential dwellings contained within the City upon receipt of complaints.

163.07 INTERFERENCE WITH THE CODE ENFORCEMENT OFFICER. No person shall interfere with the Code Enforcement Officer while engaged in the enforcement of this chapter.

163.08 UNSAFE STRUCTURES AND EQUIPMENT. The Hiawatha Housing Code is hereby amended by repealing Section 108.1 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, the code official shall commence proceedings to cause the repair, vacation or demolition of the structure and the structure may be condemned pursuant to the provisions of this code.

163.09 RIGHT TO APPEAL. The Hiawatha Housing Code is hereby amended by repealing Section 111 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

111 Means of Appeal. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Housing Code shall be heard by the Board of Appeals (hereinafter "Board") as set forth in Chapter 159 of this Code of Ordinances.

163.10 FAILURE TO COMPLY. The Hiawatha Housing Code is hereby amended by repealing Section 112.4 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

Section 112.4 Failure to Comply.

1. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a municipal infraction as specified by City Code.

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

1. "Blighted area" is defined as set forth in Section 403.17 of the Code of Iowa.
2. "Vermin" means any of various insects, bugs or small animals regarded as objectionable because they are destructive, disease carrying, etc.
3. "Occupant load" is defined as 2 persons per bedroom.

4. “Family” means one or more persons each related to the other by blood, marriage, adoption, legal guardianship or as foster parent-children who live together in a single dwelling and maintaining a common household. No more than five persons not so related and living together on the premises, as a common household may constitute a “family”.

163.12 WEEDS. The Hiawatha Housing Code is hereby amended by repealing Section 302.4 of the *International Property Maintenance Code*, and by replacing said section with a new section as follows:

302.4 WEEDS. All premises and exterior property shall be maintained free from weeds or plant growth in excess of (8) inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

163.13 INSECT SCREENS. The Hiawatha Housing Code is hereby amended by repealing Section 304.14 of the *International Property Maintenance Code*, and by replacing said section with a new section as follows:

304.14 INSECT SCREENS. During the period from January 1 to December 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have self-closing device in good working condition.

163.14 SINGLE OCCUPANT. The Hiawatha Housing Code is hereby amended by repealing Section 309.3 of the *International Property Maintenance Code*.

163.15 HEAT SUPPLY AND OCCUPIABLE WORK SPACES. The Hiawatha Housing Code is hereby amended by adding the dates of January 1 to December 31 to the respective sections of the *International Property Maintenance Code* in Sections 602.3 and 602.4.

163.16 SAFETY CONTROLS. The Hiawatha Housing Code is hereby amended by repealing Section 603.4 of the *International Property Maintenance Code*, and by replacing said section with a new section, as follows:

603.4 SAFETY CONTROLS. All safety controls for fuel burning equipment shall be maintained in effective operation. Any structures using fuel burning equipment shall protect the residents by complying with the requirements of the Hiawatha Building Code which requires carbon monoxide detectors.

163.17 RECEPTACLES. The Hiawatha Housing Code is hereby amended by addition of a new Section 605.2.1 to the *International Property Maintenance Code*, reading as follows:

605.2.1 GROUND FAULT CIRCUIT REQUIREMENTS. Receptacles which are within three feet of a source of water shall have ground fault circuit interrupter protection.

163.18 SMOKE ALARMS. The Hiawatha Housing Code is hereby amended by repealing Section 704.2.1.3 and 704.2.1.4 of the *International Property Maintenance Code* and leaving said sections blank.

163.19 CODE OF FILE. An official copy of the Hiawatha Housing Code hereby adopted, including a certificate by the Clerk as to its adoption and the effective date thereof, shall be on file in the office of the Clerk in City Hall and shall be kept there on file, and copies shall be available for public inspection. A copy of this chapter shall be available in the Community Development Department Office.

(Ch. 163 – Ord. 830 – Apr. 15 Supp.)

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CHAPTER 164

PROPERTY MAINTENANCE

164.01 Purpose	164.08 Right to Appeal
164.02 Definitions	164.09 Request for Hearing
164.03 Authority for Enforcement	164.10 Smoke Alarms
164.04 Interference with the Code Enforcement Officer	164.11 Nuisances
164.05 International Property Maintenance Code Adopted	164.12 Notice to Abate
164.06 Amendments to the Property Maintenance Code	164.13 Emergency Abatement Measures
164.07 Unsafe Structures and Equipment	164.14 Code on File

164.01 PURPOSE. The purpose of this Chapter is to designate the responsibilities of persons for maintenance of structures, equipment and exterior property within the City, to define nuisances as a result of the failure to perform such maintenance and to provide for the abatement of such nuisances in order to provide for the safety and preserve the health and welfare of the citizens of the City.

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

1. “Blighted area” is defined as set forth in Section 403.17 of the Code of Iowa.
2. “Vermin” means any of various insects, bugs or small animals regarded as objectionable because they are destructive, disease carrying, etc.

164.03 AUTHORITY FOR ENFORCEMENT. The City Administrator shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement. Any person designated by the City Administrator to enforce this chapter shall be known as the Code Enforcement Officer.

164.04 INTERFERENCE WITH THE CODE ENFORCEMENT OFFICER. No person shall interfere with the Code Enforcement Officer while engaged in the enforcement of this chapter.

164.05 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Property Maintenance Code of the City of Hiawatha that certain Code known as the *International Property Maintenance Code, 2015 Edition*, First Printing, as prepared and edited by the International Code Council, Inc., and the provisions of said Property Maintenance Code shall be controlling in maintaining minimum requirements and standards of

structures and properties within the corporate limits of the City and shall be known as the Hiawatha Property Maintenance Code.

164.06 AMENDMENTS TO THE PROPERTY MAINTENANCE CODE. Certain sections and portions of sections of the *International Property Maintenance Code*, are hereby amended, deleted, modified or added to as more specifically set forth in the following sections of this chapter.

164.07 UNSAFE STRUCTURES AND EQUIPMENT. The Hiawatha Property Maintenance Code is hereby amended by repealing Section 108.1 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, the code official shall commence proceedings to cause the repair, vacation or demolition of the structure and the structure may be condemned pursuant to the provisions of this code.

164.08 RIGHT TO APPEAL. The Hiawatha Property Maintenance Code is hereby amended by repealing Section 111 of the *International Property Maintenance Code*, and by replacing said section with new section, as follows:

111 Means of Appeal. Any appeals arising from any act of the administrative authority in the determination of the suitability of alternate materials and methods of installation or construction and provide reasonable interpretations, and of variances from the Hiawatha Property Maintenance Code shall be heard by the Board of Appeals (hereinafter "Board") as set forth in Chapter 159 of this Code of Ordinances.

164.09 (*Repealed by Ord. 776 – Mar. 14 Supp.*)

164.10 SMOKE ALARMS. The Hiawatha Housing Code is hereby amended by repealing Section 704.2.1.3 and 704.2.1.4 of the *International Property Maintenance Code* and leaving said sections blank.

164.11 NUISANCES. A failure to satisfy any of the provisions of the Hiawatha Property Maintenance Code shall constitute a nuisance.

164.12 NOTICE TO ABATE. Upon discovery of any violation of Section 164 the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

164.13 EMERGENCY ABATEMENT MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Code Enforcement Officer any nuisance is an immediate and imminent threat to life

and property, the Code Enforcement Officer may, with or without prior notice as required within, order the nuisance abated and costs assessed against the property for collection in the same manner as a property tax. However, prior to such assessment, the City shall give the property owner notice as provided by the Code of Iowa and this Code of Ordinances.

164.14 CODE ON FILE. An official copy of the Hiawatha Property Maintenance Code hereby adopted, including a certificate by the Clerk as to its adoption and the effective date thereof, shall be on file in the office of the Clerk in City Hall and shall be kept there on file, and copies shall be available for public inspection. A copy of this chapter shall be available in the Community Development Department Office.

(Ch. 164 – Ord. 831 – Apr. 15 Supp.)

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CHAPTER 165

UNIFIED DEVELOPMENT CODE

EDITOR'S NOTE

The Unified Development Code, adopted December 17, 1997 by Ordinance No. 439, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Unified Development Code of the City.

ORDINANCE	ADOPTED	SUBJECT
442	3-4-98	Zoning Map
443	3-4-98	Zoning Map
444	3-4-98	Zoning Map
445	3-4-98	Zoning Map
448	7-1-98	Zoning Map
449	6-3-98	Board of Adjustment
452	7-15-98	Zoning Map
453	8-5-98	Zoning Map
454	8-5-98	Zoning Map
465	11-18-98	Landscape & Shading Regulations
468	1-6-99	Zoning Map
469	2-3-99	Zoning Map
472	4-7-99	Zoning Map
473	4-7-99	Zoning Map
476	5-5-99	Zoning Map
477	5-5-99	Zoning Map
479	7-7-99	Zoning Map
480	7-7-99	Zoning Map
481	9-1-99	Zoning Map
485	2-2-00	Zoning Map
487	3-15-00	Zoning Map
489	4-5-00	Land Use in C-4 and I-1 Districts
491	8-2-00	Zoning Map
492	8-2-00	Zoning Map
496	1-3-01	Zoning Map
497	1-3-01	Maintenance Bond
500	4-4-01	Land Use in I-2 District
506	9-5-01	Zoning Map
507	9-5-01	Zoning Map

ORDINANCE	ADOPTED	SUBJECT
508	10-17-01	Off-street Parking Table
510	11-21-01	Zoning Map
514	5-15-02	Zoning Map
519	5-15-02	Site Plan Requirements
520	6-5-02	Zoning Map
530	3-5-03	Zoning Map
531	3-5-03	Meetings and Hearings
534	5-7-03	Zoning Map
537	10-15-03	Zoning Map
538	10-15-03	Zoning Map
539	10-15-03	Zoning Map
540	11-5-03	Zoning Map
541	11-5-03	Zoning Map
547	12-30-03	Zoning Map
548	1-7-04	Amendments to Zoning Map
551	4-7-04	Zoning Map
552	5-5-04	Zoning Map
555	9-1-04	Zoning Map
563	10-6-04	Zoning Map
570	5-4-05	Zoning Map
574	8-3-05	Land Use Regulations
581	9-7-05	Off-Street Parking Spaces
583	11-2-05	Zoning Map
586	3-15-06	Zoning Map
589	8-2-06	Zoning Map
590	8-2-06	Zoning Map
597	2-7-07	Zoning Map
598	2-21-07	Condition Use of Animal Boarding
610	12-5-07	Zoning Map
611	12-5-07	Zoning Map
612	2-20-08	Zoning Map
616	4-2-08	Zoning Map
617	6-4-08	Authorized Variances
624	9-3-08	Land Use Regulations
625	11-5-08	Zoning Map
630	3-18-09	Land Use Regulations
631	3-18-09	Zoning Map
638	5-18-09	Tree Planting List
645	8-5-09	Land Use Regulations
646	8-19-09	Supplemental Regulations
650	10-7-09	Zoning Map
656	2-3-10	Zoning Map
663	4-21-10	Land Use Regulations
664	6-2-10	Zoning Map
666	6-2-10	Nonconforming Structures and Buildings

ORDINANCE	ADOPTED	SUBJECT
670	7-7-10	Zoning Map
672	8-4-10	Zoning Map
673	8-4-10	Zoning Map
674	8-4-10	Zoning Map
676	10-20-10	Land Use Regulations
677	10-20-10	Land Use Regulations
678	10-20-10	Land Use Regulations
679	10-20-10	Zoning Map
680	10-20-10	Zoning Map
681	10-20-10	Zoning Map
682	10-20-10	Zoning Map
689	12-1-10	Zoning Map
690	12-1-10	Zoning Map
691	12-1-10	Zoning Map
699	4-6-11	Land Use Regulations
700	4-6-11	Off-Street Parking
702	4-20-11	Zoning Map
706	6-14-11	PUD Overlay District
711	8-3-11	Zoning Map
712	8-17-11	Adult Entertainment Establishments
731	7-18-12	Subdivision Requirements
732	7-18-12	Off-street Parking Spaces
734	11-7-12	Zoning Map
744	5-15-13	Zoning Map
749	8-7-13	Center Point Road Zoning District
750	8-21-13	Zoning Map
752	8-21-13	Variances and Amendments
753	8-21-13	Pawnbrokers and Delayed Deposit Services
756	9-4-13	Zoning Map
757	9-4-13	Land Use Matrix
758	9-4-13	Land Use Matrix
761	10-16-13	Publication Requirements
777	1-22-14	Subdivision Regulations
779	2-19-14	Public Service Areas, Parks and Open Spaces
780	3-19-14	Applicability; Interpretation of Regulations; Supplemental Yard Regulations; PUD Overlay District
789	6-4-14	Zoning Map
792	7-2-14	Zoning Map
793	8-6-14	Zoning Map
796	8-20-14	Land Use Matrix
797	9-3-14	Zoning Map
807	10-15-14	Zoning Map
817	12-17-14	Land Use Matrix
818	12-17-14	Land Use Matrix
819	12-17-14	Jurisdiction
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SIGN CODE

The Sign Code, adopted October 16, 2002 by Ordinance No. 529, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Sign Code of the City.

ORDINANCE	ADOPTED	SUBJECT
536	8-6-03	Compliance
575	8-3-05	Ground Sign Surface Area
615	2-20-08	Temporary Signs
722	3-7-12	Sign Types
760	10-16-13	CPR District Signs
832	3-4-15	Electronic Message Center Signs
844	8-19-15	Entire Sign Code Amended
864	5-18-16	Regulations for All Signs

[illegible]

CHAPTER 167

FILLING, GRADING AND EROSION CONTROL CODE

[illegible]

[illegible]

LIGHTING CODE

The Lighting Code, adopted August 6, 2003 by Ordinance No. 535, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Lighting Code of the City.

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