

CODE OF ORDINANCES OF THE CITY OF AUDUBON, IOWA

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CHAPTER 1 CODE OF ORDINANCES

1.01 Title	1.08 Amendments
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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Audubon, Iowa.

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Audubon, Iowa.
3. “Clerk” means the city clerk of Audubon, 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 Audubon, Iowa.
6. “Council” means the city council of Audubon, Iowa.
7. “County” means Audubon County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Audubon, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. “Person” means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. “Shall” imposes a duty.
16. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. “State” means the State of Iowa.
18. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.
19. “Street” or “highway” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment

rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

1.09 CATCHLINES AND NOTES. The catchlines of the several sections of this 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 this Code of Ordinances, do not constitute any part of the law and are intended merely to indicate, explain, supplement, or clarify the contents of a section.

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

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

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

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

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

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

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

CHAPTER 2 CHARTER

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

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

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council form of government.
(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five Council Members elected at large for overlapping terms of four years.
(Code of Iowa, Sec. 376.2)

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

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

CHAPTER 3 MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

3.01 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.[†]
(*Code of Iowa, Sec. 364.22[3]*)

3.02 ENVIRONMENTAL VIOLATION. A municipal infraction that is a violation of Chapter 455B of the *Code of Iowa* or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:
(*Code of Iowa, Sec. 364.22[1]*)

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

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00
 - C. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.
2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than \$1,000.00 for each day a violation exists or continues.
 - B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$1,000.00 for each

[†] **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

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

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

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

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.
8. The legal description of the affected real property, if applicable.
9. If the citation affects real property and charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation, or a public health or safety violation, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

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

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

3.06 ALTERNATIVE PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or

regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

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

Chapter 4 RESERVED

CHAPTER 5 OPERATING PROCEDURES

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

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected but not later than noon of the first day that 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 Audubon as now or hereafter required by law.”

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

5.07 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof

or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a

cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

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

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

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

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

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

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

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

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES. Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within 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 in accordance with Section 372.13[2] of the *Code of Iowa*.

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

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

CHAPTER 6 CITY ELECTIONS

6.01 Nominating Method to Be Used
 6.02 Nominations by Petition
 6.03 Adding Name by Petition
 6.04 Preparation of Petition and Affidavit

6.05 Filing; Presumption; Withdrawals; Objections
 6.06 Persons Elected
 6.07 Voting Precincts

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

6.07 VOTING PRECINCTS. In accordance with the 2010 federal decennial census and Chapter 49 of the *Code of Iowa*, the City hereby establishes one voting precinct numbered “One,” which shall correspond with the precinct as established by resolution of the Board of Supervisors of Audubon County, Iowa, and described as follows:

1. **PRECINCT ONE** shall consist of the unincorporated area of Lincoln, Cameron, Viola, Douglas, Leroy, and Melville Townships and the incorporated area of the City of Audubon.

CHAPTER 7 FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

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

4. Change Fund. The finance officer is authorized to establish a change fund for the purpose of making change without comingling other funds to meet the requirements of the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.

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

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

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

(Code of Iowa, Sec. 384.22)

CHAPTER 8 INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 (Repealed by Ordinance No. 747 – Jul. 20 Supp.

CHAPTER 9 URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
603	7-26-93	Audubon Urban Renewal Area
639	11-23-98	Amended Audubon Urban Renewal Area
650	4-23-01	2001 Audubon 3 rd Avenue Urban Renewal Area
651	5-14-01	2001 Audubon 3 rd Avenue Urban Renewal Area
730	7-11-16	Amended Audubon Urban Renewal Area
733	9-12-16	Amended Audubon Urban Renewal Area

CHAPTER 10 URBAN REVITALIZATION

10.01 Ordinance No. 743, adopted July 8, 2019, designated the Audobon Citywide Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

CHAPTER 11 RESERVED

CHAPTER 12 RESERVED

CHAPTER 13 RESERVED

CHAPTER 14 RESERVED

CHAPTER 15 MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.4)

1. Library Board of Trustees
2. Parks and Recreation Board
3. Police Chief

15.04 COMPENSATION. The salary of the Mayor is \$150.00 per month, payable monthly.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16 MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.
(Code of Iowa, Sec. 372.14[3])

16.02 POWERS AND DUTIES. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to appoint, employ, or discharge from employment officers or employees that the Mayor has the power to appoint, employ, or discharge without the approval of the Council.
(Code of Iowa, Sec. 372.14[3])

16.03 VOTING RIGHTS. The Mayor Pro Tem shall have the right to vote as a member of the Council.
(Code of Iowa, Sec. 372.14[3])

16.04 COMPENSATION. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.
(Code of Iowa, Sec. 372.13[8])

CHAPTER 17 CITY COUNCIL

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

17.04 Council Meetings
 17.05 Appointments
 17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of five Council members elected at large for overlapping terms of four years.
(Code of Iowa, Sec. 372.4 & 376.2)

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

1. General. All powers of the City are vested in the Council except as otherwise provided by law or ordinance.
(Code of Iowa, Sec. 364.2[1])
2. Wards. By ordinance, the Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards, or create new wards.
(Code of Iowa, Sec. 372.13[7])
3. Fiscal Authority. The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement, or repairs that may be specially assessed.
(Code of Iowa, Sec. 364.2[1], 384.16 & 384.38[1])
4. Public Improvements. The Council shall make all orders for the construction of any improvements, bridges, or buildings.
(Code of Iowa, Sec. 364.2[1])
5. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind or be obligatory upon the City unless approved by the Council.
(Code of Iowa, Sec. 26.10)
6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by State law or the Code of Ordinances.
(Code of Iowa, Sec. 372.13[4])
7. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the beginning of the term of the Council members elected at the election next following the change in compensation.
(Code of Iowa, Sec. 372.13[8])

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

F. "All of the members of the Council" refers to all of the seats of the Council including a vacant seat and a seat where the member is

absent, but does not include a seat where the Council member declines to vote by reason of a conflict of interest.

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

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

1. Regular Meetings. The regular meetings of the Council are on the second Monday of each month at 5:30 p.m. at the Memorial Building in the first floor large room or in the Council Chambers. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission
4. Zoning Board of Adjustment

17.06 COMPENSATION. The salary of each Council member is \$55.00 per month, payable quarterly.

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

CHAPTER 18 CITY CLERK

18.01 Appointment and Compensation 18.02 Powers and Duties: General 18.03 Publication of Minutes 18.04 Recording Measures 18.05 Other Publications 18.06 Authentication 18.07 Certification	18.08 Records 18.09 Attendance at Meetings 18.10 Licenses and Permits 18.11 Notification of Appointments 18.12 Elections 18.13 City Seal
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18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve for a term of two years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) or more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

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

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

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

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

18.07 CERTIFICATION. 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 that by this Code of Ordinances are required to be attested by the affixing of the seal.

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

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

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

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

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

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

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

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

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates that it may be necessary or proper to authenticate.

CHAPTER 19 CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

CHAPTER 20 CITY ATTORNEY

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

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

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.
(Code of Iowa, Sec. 372.13[4])

20.02 ATTORNEY FOR CITY. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission, or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.03 POWER OF ATTORNEY. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
(Code of Iowa, Sec. 372.13[4])

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances that the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.
(Code of Iowa, Sec. 372.13[4])

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.
(Code of Iowa, Sec. 372.13[4])

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms, and other writings that may be required for the use of the City.
(Code of Iowa, Sec. 372.13[4])

CHAPTER 21 LIBRARY BOARD OF TRUSTEES

<p>21.01 Public Library</p> <p>21.02 Library Trustees</p> <p>21.03 Qualifications of Trustees</p> <p>21.04 Organization of the Board</p> <p>21.05 Powers and Duties</p> <p>21.06 Contracting with Other Libraries</p>	<p>21.07 Nonresident Use</p> <p>21.08 Expenditures</p> <p>21.09 Annual Report</p> <p>21.10 Injury to Books or Property</p> <p>21.11 Theft</p> <p>21.12 Notice Posted</p>
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21.01 PUBLIC LIBRARY. The public library for the City is known as the Audubon Public Library. It is referred to in this chapter as the Library.

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

21.03 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.

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

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. 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.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

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

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.
(*Code of Iowa, Sec. 392.5 & Ch. 28E*)

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

21.07 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.

21.08 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)

21.09 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.

21.10 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)

21.11 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)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22 PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
 22.02 Term of Office
 22.03 Vacancies

22.04 Compensation
 22.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

22.03 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)

22.04 COMPENSATION. Each member shall be paid \$5.00 for each Commission meeting attended, subject to the approval of the Council.

(Code of Iowa, Sec. 392.1)

22.05 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 on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after thirty (30) days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 23 PARKS AND RECREATION BOARD

23.01 Parks and Recreation Board Created
23.02 Board Organization
23.03 Duties of the Board

23.04 Reports
23.05 Rules

23.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds, and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

23.02 BOARD ORGANIZATION. The Board shall consist of five members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of two years. For purposes of this chapter, "resident" is defined as any person who lives within the City limits or within 30 miles of the City. The Board shall annually choose a Chairperson, Vice Chairperson, and Secretary. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

23.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for parks and recreation purposes. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payment will be made by check written by the Clerk for invoices submitted and approved by the Board.

23.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

23.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

CHAPTER 24 AUDUBON COUNTY AIRPORT AUTHORITY

24.01 Authorization to Join Airport Authority
 24.02 Assessment of Levy
 24.03 Duration of Levy
 24.04 Collection of Levy

24.05 Records
 24.06 Annual Report and Budget
 24.07 Use of Said Levy
 24.08 Enforcement of Collection

24.01 AUTHORIZATION TO JOIN AIRPORT AUTHORITY. Pursuant to published notice and following public hearing on June 13, 1988, as required by Section 330A.6, *Code of Iowa*, the City is hereby authorized to join the Audubon County Airport Authority.

24.02 ASSESSMENT OF LEVY. Having joined the Audubon County Airport Authority and in compliance with Section 330A.15 of the *Code of Iowa*, the City shall assess an annual levy on all taxable property in the incorporated area of the City for the exclusive and proper use of the Audubon County Airport Authority. The levy shall be \$.27 per \$1,000.00 of assessed value.

24.03 DURATION OF LEVY. Said levy shall commence during the fiscal year 1989-90 and shall continue annually for a period of 40 years, through fiscal year 2029-2030.

24.04 COLLECTION OF LEVY. Said levy shall be collected in the manner other taxes are collected and allocated and shall be paid to the Authority.

24.05 RECORDS. The Authority, pursuant to Section 330A.15 of the *Code of Iowa*, shall deposit said funds in a special trust fund to be called “The Audubon County Airport Authority Capital Reserve Fund,” and shall keep a record of said deposits.

24.06 ANNUAL REPORT AND BUDGET. The Authority shall submit annually, on or before February 1 of each year, an annual report of receipts and expenditures, and shall submit a budget for the next fiscal year to the City for the Authority. Said report and budget shall be filed with the Clerk for delivery to the Council.

24.07 USE OF SAID LEVY. Said levy is for the exclusive and proper use of the Authority, including (but not limited to) the purchase of land; the acquisition, establishment, construction, enlargement, operation, and maintenance of aviation facilities in Audubon County; funding studies, plans; and other expenses of the Airport Authority pursuant to Chapter 330A of the *Code of Iowa*.

24.08 ENFORCEMENT OF COLLECTION. The Authority shall have the power to enforce the collection of such levy by mandamus or other appropriate remedy.

CHAPTER 25 HISTORIC PRESERVATION COMMISSION

25.01 Purpose and Intent

25.02 Definitions

25.03 Structure of Commission

25.04 Powers of the Commission

25.05 Appeals

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

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

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

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

- B. Is associated with the lives of persons significant in our past; or
- C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- D. Has yielded, or may be likely to yield, information important in prehistory or history.

25.03 STRUCTURE OF COMMISSION.

- 1. The Commission consists of five (5) members who are residents of the City.
- 2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. The members shall be appointed as follows: one person who is a licensed real estate salesman or broker; one nominated by the Audubon Area Chamber of Commerce and three at-large members. All members shall demonstrate a positive interest in or have professional qualifications evidencing expertise in architecture, architectural history, historic preservation, City planning, building rehabilitation or conservation in general.
- 3. The Commission members are appointed for staggered terms of three (3) years. All terms begin January 1.
- 4. Members shall serve without compensation.
- 5. A simple majority of the Commission shall constitute a quorum for the transaction of business.
- 6. The Commission shall elect from its members a chairperson who shall preside over all Commission meetings and a secretary who shall be responsible for maintaining written records of the Commission's proceedings.
- 7. The Commission shall meet at least (3) times a year.

25.04 POWERS OF THE COMMISSION.

- 1. The Commission may conduct reviews for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon petition from any person, group or association. The Commission shall maintain records of all reviews and inventories for public use.
- 2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
- 3. Upon receiving the recommendation of the Commission, the Council shall conduct a public hearing on the establishment of the proposed Historical Preservation District. The Council may approve, disapprove or may refer the historic district or site designation to the Commission for modification and/or recommendations.
- 4. In addition to those duties and powers specified above, the Commission may, with Council approval,

- A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;
- B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;
- C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;
- D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
- E. Contract with State or federal government or other organizations;
- F. Cooperate with federal, State and local governments in the pursuance of the objectives of historic preservation;
- G. Participate in the conduct of land use, urban renewal and other planning undertaken by the City;
- H. Recommend ordinances or otherwise provide information for the purpose of historic preservation to the Council;
- I. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction; and
- J. Enter, only in performance of its official duties and only at reasonable times, upon private lands with the consent of the owner and/or tenant, for examination or survey of the lands.

25.05 APPEALS. Appeals from decisions or actions of the Commission shall first be taken to the Council.

CHAPTER 26 RESERVED

CHAPTER 27 RESERVED

CHAPTER 28 RESERVED

CHAPTER 29 RESERVED

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 Police Chief Appointed
 30.07 Powers and Duties of Police Chief
 30.08 Departmental Rules
 30.09 Summoning Aid
 30.10 Taking Weapons

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

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

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

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

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

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

30.06 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.
(Code of Iowa, Sec. 372.4)

30.07 POWERS AND DUTIES OF POLICE CHIEF. 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.
5. *(Code of Iowa, Sec. 321.266)*

6. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
7. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.
8. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
9. 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.
10. 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.
11. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

CHAPTER 31 RESERVE PEACE OFFICERS

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 32 RESERVED

CHAPTER 33 RESERVED

CHAPTER 34 RESERVED

CHAPTER 35 FIRE DEPARTMENT

35.01 Establishment and Purpose
 35.02 Organization
 35.03 Approved by Council
 35.04 Training
 35.05 Compensation
 35.06 Election of Officers
 35.07 Duties of Fire Chief
 35.08 Obedience to Fire Chief

35.09 Constitution
 35.10 Accidental Injury Insurance
 35.11 Liability Insurance
 35.12 Calls Outside City
 35.13 Mutual Aid
 35.14 Authority to Cite Violations
 35.15 Emergency Ambulance Service
 35.16 Fire Service Fees

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin, and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other

hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000.00) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 and 100.3)

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

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

13. Reports. Compile and submit to the 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 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

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

35.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer firefighters injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All volunteer firefighters shall be covered by the contract.
(Code of Iowa, Sec. 85.2, 85.61, and Sec. 410.18)

35.11 LIABILITY INSURANCE. The Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.
(Code of Iowa, Sec. 670.2 and 517A.1)

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 and 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 and 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 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services, and the accidental injury and liability insurance provided for herein shall include such operation.

35.16 FIRE SERVICE FEES. The Council shall set fees by resolution for fire protection services provided to citizens of the City and surrounding townships. Said

fees shall be based upon such factors and in such amounts as recommended by the Fire Chief.

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 to the City for all of the following:

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

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance 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, who 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.
3. 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).

CHAPTER 37 RESERVED

CHAPTER 38 RESERVED

CHAPTER 39 RESERVED

CHAPTER 40 PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that 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 that the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

CHAPTER 41 PUBLIC HEALTH AND SAFETY

<p>41.01 Distributing Dangerous Substances</p> <p>41.02 False Reports to or Communications with Public Safety Entities</p> <p>41.03 Providing False Identification Information</p> <p>41.04 Refusing to Assist Officer</p> <p>41.05 Harassment of Public Officers and Employees</p> <p>41.06 Interference with Official Acts</p> <p>41.07 Removal of an Officer's Communication or Control Device</p>	<p>41.08 Abandoned or Unattended Refrigerators</p> <p>41.09 Antenna and Radio Wires</p> <p>41.10 Barbed Wire and Electric Fences</p> <p>41.11 Discharging Weapons</p> <p>41.12 Throwing and Shooting</p> <p>41.13 Urinating and Defecating</p> <p>41.14 Fireworks Regulations</p>
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41.01 DISTRIBUTING DANGEROUS SUBSTANCES. No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical

care provider or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

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

41.14 FIREWORKS REGULATIONS. The sale and use of fireworks are regulated as follows:

1. Prior to any person engaging in fireworks sales, the following shall be provided to the Fire Chief:
 - A. Proof of valid permit issued from the state fire marshal.
 - B. Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.
2. Any property, building, or premise whether it be permanent or temporary, intended for fireworks sales shall have an initial fire inspection completed by the Fire Chief prior to engaging in fireworks sales. The Fire Chief or their designee shall cause an annual inspection to occur meeting the requirements of the National Fire Protection Code 1124 (2006 Edition) and the current fire code adopted by the City of Audubon.
 - A. An annual inspection fee of \$100 shall be charged by the City of Audubon for any permanent structure or building where fireworks are sold.
 - B. An annual inspection fee of \$200 shall be charged for any temporary or non-brick and mortar building used to sell fireworks.
3. Fireworks sales shall only be conducted in accordance with dates and times designated by Iowa Code.
 - A. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved permanent structure or building between June 1 and July 8 and from December 10 until January 3.
 - B. Approved fireworks sales meeting the requirements of this chapter shall be allowed from an approved temporary structure between June 13 and July 8.
 - C. It shall be unlawful to sell fireworks without meeting the requirements specified in this ordinance, or to sell fireworks outside of the dates specified.
 - D. Fireworks shall not be sold from a motor vehicle or trailer required to be licensed for travel on a public roadway.
4. The City may, upon application in writing, grant a permit for the display of fireworks on public property by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$1,000,000 per person.
- B. Property Damage: \$1,000,000.
- C. Total Exposure: \$1,000,000.
(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

6. Fireworks Sales and Safety Requirements. The following safety requirements shall be adopted for all locations where fireworks are sold:

A. Any permanent structure used primarily for the purpose of fireworks sales shall be located 35 feet from a property line, public roadway, alley, or highway; and 70 feet from an inhabited building.
Exception: Where a person owns the adjacent property or written permission is granted, the property line distance requirement can be reduced to 15 feet.

B. Any temporary structure selling fireworks shall be located 55 feet from a property line, public roadway, alley, or highway; and 110 feet from an inhabited building.

C. Smoking, open flame source, or matches shall not be located within 50 feet where fireworks are sold. NO SMOKING signs shall be posted in conspicuous locations throughout the sales area.

D. Exception:

(1) Lighters and matches may be sold as part of a retail business in commercial structures who engage in other merchandise sales where fireworks are not the primary business.

(2) Locations who engage in fireworks sales as a primary source of revenue may sell extended lighters so long as lighters are located in a sealed package and not opened within the store premises.

E. All electrical wiring shall meet NFPA 70 National Electrical Code. Permanent structures or buildings used primarily for fireworks sales shall meet wiring requirements for a hazardous location, including covered light fixtures to avoid sparks upon failure or damage to lights.

F. All fireworks sales locations shall maintain 48 inch clear aisles between fireworks display shelves.

G. Any location where fireworks are sold shall maintain two approved exits for egress during an emergency. All approved exits shall be clearly marked with signage; except that, exit signs shall be illuminated in permanent structures.

H. Fireworks sales shall only be permitted in a single story at grade building or structure to facilitate easy exiting during an emergency.

I. All locations shall have a minimum of two 10 pound ABC rated fire extinguishers mounted in accordance with NFPA 10. Additional fire extinguishers shall be placed in locations to prevent travel distance exceeding 75 feet in order to reach a fire extinguisher. Nothing in this ordinance prevents a temporary sales location from having emergency water barrels positioned in the sales area for use during a small fire; except that fire extinguishers are still required.

J. All doors used as service doors outside the view of a clerk shall be locked to prevent unauthorized persons from entering the building unnoticed. If doors are required as part of the two approved exits needed, they shall be operable without special tools, keys, or knowledge. Delayed or alarmed egress doors are permitted so long as release is activated within 8 seconds and the delay device is not affixed to the primary egress door.

K. No persons under the influence of alcohol, drugs, or narcotics, shall be allowed to remain in the business where fireworks are sold as a primary business.

L. No more than one connex container or approved explosive magazine shall be located on site for short term storage of extra product. All containers shall be properly placarded and equipped with tamper proof locking devices. It is permitted to place containers in a security fenced area.

M. Individual fireworks devices or opened fireworks packages shall not be permitted to be displayed. No open fuses shall be exposed during storage inside a sales location.

N. Leftover fireworks shall be removed from sales locations by July 9 and January 4.

O. The Fire Chief or designated inspector shall have the authority to reduce or eliminate requirements under Section 6 of this ordinance for permanent structures, when, in his or her opinion, safety of the structure and general public will not be compromised, in order to ensure property owners a reasonable right to pursue firework sales.

7. Sales allowed, location: Fireworks sales shall only be allowed in areas zoned for commercial or industrial use.

A. Any person engaged in sales in any other zone other than commercial or industrial zoned areas shall not be approved for sales within the City limits.

B. No person shall sell a DOT 1.4 class firework to a person under the age of 18.

C. Fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by other substances.

8. Fireworks sales penalties:

A. A person or entity who violates the provision of this fireworks sales ordinance shall be assessed a municipal infraction cost not exceeding \$500 plus court costs.

B. In circumstances where a flagrant or intentional violation of these provisions occurs, a peace officer shall issue a misdemeanor charge with a scheduled fine of \$750 in addition to established court costs.

C. Persons violating the provisions of this chapter shall be reported to the state fire marshal to cause revocation of permit hearings to commence.

9. Fireworks use and discharge, general requirements:

A. No person under the age of 18 shall discharge a DOT 1.4 class fireworks without adult supervision.

B. A person shall only discharge a fireworks device on real property they own or on property where consent has been given.

(1) Exceptions: Snakes, sparklers, or caps can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.

C. Fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.

D. Any person discharging a fireworks device assumes all responsibility for its operation, flight, and the consequences thereof.

E. No person shall discharge a fireworks device in a reckless manner or manner likely to cause death, injury, fire, or property damage.

F. No person shall discharge a fireworks device outside the following dates and hours:

(1) July 3rd, 4th from the hours of 6:00 p.m. until 10:00 p.m.

(2) In case of burn ban, as determined by the Audubon Fire Department Chief, no use is allowed.

G. It shall be unlawful to alter, remove, or discharge components of a fireworks device from its intended method of discharging.

H. Sky lantern open flame devices are not permitted to be released within the City limits, except if tethered by a retrievable rope so long as the person discharging has control over the sky lantern.

I. Buffer zone: no fireworks of any time shall be discharged within 300 ft. of any public school building, assisted living facility, or hospital.

10. Fireworks use and discharge, penalties:

A. Any person who violates the provisions of the fireworks discharging ordinance or without reckless intent causes injury, property damage or a fire shall be guilty of a scheduled municipal infraction punishable by a \$250 fine in addition to established court costs.

B. Persons who violates the discharging fireworks ordinance after having been found guilty of a previous municipal infraction involving fireworks shall be cited for a municipal infraction with a fine of \$600 plus associated court costs.

C. Persons who recklessly endanger the property or safety of another shall be guilty of a serious misdemeanor in violation of 712.5 State *Code of Iowa*.

CHAPTER 42 PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
 42.02 Criminal Mischief
 42.03 Defacing Proclamations or Notices
 42.04 Unauthorized Entry

42.05 Fraud
 42.06 Theft
 42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

(4) Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing

thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

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

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

3. Specific Exceptions. “Trespass” does not mean either of the following:
(*Code of Iowa, Sec. 716.7[2b]*)

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

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

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

(*Code of Iowa, Sec. 716.1*)

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

(*Code of Iowa, Sec. 716.1*)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the

public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
 - A. Section 21.10 – Injury to Books or Property
 - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

CHAPTER 43 DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery, or Offering For Sale

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

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

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

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

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

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

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

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

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

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

CHAPTER 44 RESERVED

CHAPTER 45 ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.
 - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
 - D. “School” means a public or private school or that portion of a public or private school that provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated in a public place.
3. A person shall not simulate intoxication in a public place.
4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

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

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

CHAPTER 46 MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

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

- F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 12:00 midnight and 5:00 a.m.
 3. Exceptions. The following are exceptions to the curfew:
 - A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor’s place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
 4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor’s presence falls within one of the above exceptions.
 5. Enforcement Procedures.
 - A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver’s license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

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

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

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

6. Penalties.

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

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

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

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.

Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

CHAPTER 47 PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Parks Closed
47.06 Camping

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 11:00 p.m. and 7:00 a.m.

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

CHAPTER 48 RESERVED

CHAPTER 49 RESERVED

CHAPTER 50 NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
 50.02 Nuisances Enumerated
 50.03 Other Conditions
 50.04 Nuisances Prohibited

50.05 Nuisance Abatement
 50.06 Abatement of Nuisance by Written Notice
 50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. **(See also Chapter 52)**

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

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

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

13. Outdoor Lighting Pollution. All obtrusive and objectionable elements of outdoor lighting, including uplight, glare, light trespass, and excessive light levels. As used in this subsection, the following definitions apply:

A. “Glare” means light from a light source which draws attention to the light source itself rather than to that which the light source is illuminating.

B. “Uplight” means light which goes primarily up into the sky from a light fixture or source.

C. “Light trespass” means light which shines into or onto neighboring properties and is intrusive or objectionable in nature.

D. “Excessive light levels” means those levels which exceed the recommended light levels for outdoor lighting applications as determined by the Illuminating Engineering Society of North America, as amended from time to time.

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

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]

A. Description of Nuisance. A description of what constitutes the nuisance.

B. Location of Nuisance. The location of the nuisance.

C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

D. Reasonable Time. A reasonable time within which to complete the abatement.

E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.

2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

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

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

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

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred.

[†] **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.

The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

CHAPTER 51 JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 52 MOWING OF PROPERTIES

52.01 Mowing of Properties

52.02 Penalty

52.03 Method of Service and Billing

52.04 Municipal Infraction

52.01 MOWING OF PROPERTIES. Any property within the City of Audubon, whether vacated or non-vacated, is required to be mowed any time the vegetation reaches a height of more than 8 inches in the months of April, May, June, July, August, September, and October of each year.

52.02 PENALTY. The City or its agents may mow any property that is not mowed by the above dates, and a charge of \$75.00 per hour for such mowing, plus a surcharge of \$100.00, will be charged to the property owner. Any property owners who fail to mow their properties, thus allowing the same to be mowed by the City or their agents, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

52.03 METHOD OF SERVICE AND BILLING. Annual publication of the ordinance codified by this chapter will serve as notice to property owners. Any billings for mowing done by the City or their agents are to be sent by regular mail and are payable within 30 days of the billing date. If not paid within said period, the City Clerk shall assess the cost of such cutting to and against the owner of the lot or parcel of ground upon or opposite where such work was done and declare the same, together with the costs of serving notices and all other costs connected therewith, to be a lien and charge upon said lot or parcel of ground, and report the same to the County Treasurer, who shall take the necessary steps to cause the same to be placed on the tax list to be collected at the time and in the manner provide by law for the collection of other taxes.

52.04 MUNICIPAL INFRACTION. In addition to the collection of the costs, if any, as set out in Sections 52.02 and 52.03, each infraction of Section 52.01 shall be a municipal infraction and shall be punishable under the procedures and civil penalties for municipal infractions as set out under Chapter 3 of this Code of Ordinances, except that each day shall not be a separate offense and instead, beginning with the sixth day after the initial infraction, each five days thereafter which the infraction is allowed by the property owner to go unabated shall constitute a separate and subsequent infraction which shall be punished as such.

CHAPTER 53 RESERVED

CHAPTER 54 RESERVED

CHAPTER 55 ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition of Animals
55.06 At Large Prohibited	55.15 Impounding
55.07 Damage or Interference	55.16 Pet Awards Prohibited
55.08 Annoyance or Disturbance	55.17 Habitual Offender
55.09 Vicious Dogs	

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(*Code of Iowa, Sec. 717.1*)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit,

gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means that 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 that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.
(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.
(Code of Iowa, Sec. 717B.8)

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

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

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

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

55.09 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. If proper documentation is not available and the breed is in question, then the owner of dog must have the dog submit to blood testing with cost to the owner, to determine the breed.

1. Definition of A Vicious Dog. "Vicious dog" means:
 - A. Any dog which has attacked a human being or domestic animal one or more times, without provocation.
 - B. Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

- C. Any dog that snaps, bites or manifests a disposition to snap or bite.
- D. Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes.
- E. Any dog trained to attack human beings, upon command or spontaneously in response to human activities except dogs owned by and under the control of the Police Department, a law enforcement agency of the State or United States or a branch of the armed forces of the United States.
- F. Any Staffordshire Terrier breed of dog.
- G. Any American Pit Bull Terrier breed of dog.
- H. Any Pit Bull Terrier breed of dog.
- I. Any American Staffordshire Terrier breed of dog.
- J. Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier, Pit Bull Terrier, or American Staffordshire Terrier.

2. Designation of Vicious Dog.

- A. The Police Chief/officer shall be authorized to deem a dog a vicious dog. The Police Chief/officer may serve, personally or by certified mail, written notice of designation of vicious dog upon the person that owns, shelters, harbors, or keeps such dog. Nothing in this section shall be construed to require that the Police Chief/officer give notice of designation of vicious dog prior to issuance of a removal order pursuant to this chapter.
- B. The Police Chief/officer's designation of a vicious dog may be appealed to the Council. In order to appeal such designation, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the designation. Failure to file such notice of appeal shall constitute a waiver of right to appeal the designation of the Police Chief/officer.
- C. The notice of appeal shall state the ground for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within three (3) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the designation of the Police Chief/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 and the Clerk shall serve notice of the decision upon the person that made the appeal by mail addressed to that person's last known address.

3. Seizure, Impoundment and Disposition.

- A. Upon the complaint of any individual that a person is keeping, sheltering, or harboring a vicious dog in violation of this chapter, on the premises in the City, the Police Chief/officer shall cause the matter to be investigated and if after investigation, the facts indicate that the

person named in the complaint is keeping, sheltering, or harboring a vicious dog in violation of this chapter in the City, the Police Chief/officer shall order the person named in the complaint to safely remove such dog from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove such dog, which notice shall be given in writing to the person, keeping, sheltering, or harboring such dog, and shall be served personally or by certified mail. Such order and notice to remove such dog shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Police Chief/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.

B. The order to remove a vicious dog issued by the Police Chief/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 such vicious dog. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Police Chief/officer.

C. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days after the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Police Chief/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.

D. If the Council affirms the action of the Police Chief/officer the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such vicious dog shall remove such animal from the City and destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief/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 Police Chief/officer is authorized to seize, impound or destroy such vicious dog. Failure to comply with an order of the Police Chief/officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

55.14 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 seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING. Any animal impounded for violation of any of the terms set out in Chapter 55 of the Code of Ordinances of the City of Audubon, Iowa will be transported to an impounding facility, designated by the City Council, by a representative of the City.

1. Impounding Costs. Impounding costs imposed upon the pet owner are as follows: thirty (\$30.00) dollars for first offense, forty (\$40.00) dollars for second offense, and fifty (\$50.00) for third or subsequent offense. A daily boarding fee shall be assessed to the pet owner in the amount of fifteen (\$15.00) per day. All other costs, including, but not limited to, for the care, feeding, and veterinary care of the animal shall be assessed to the pet owner as well.
2. Proof of Rabies Vaccination. In addition to paying any impounding fees as set out in 55.15(1) above pet owners shall also be required to provide written proof of rabies vaccination to the Police Chief/officer or the City Clerk before said pet shall be released from impoundment.

55.16 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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

55.17 HABBITUAL OFFENDER. Persons who incur three violations within a twelve-month period of the offenses contained in Sections 55.06 and/or 55.09, shall not own, keep, or maintain the subject animal(s) or animal(s) of the same species for a period of two years. The animal(s) owned, kept, or maintained in violation of this section will be confiscated and not returned.

CHAPTER 56 RESERVED

CHAPTER 57 RESERVED

CHAPTER 58 RESERVED

CHAPTER 59 RESERVED

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 Reports of Traffic Accidents
 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 “Audubon 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 schoolhouse.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the City Clerk. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not a Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein,

shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

4. Control by Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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 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 this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

CHAPTER 62 GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
 62.06 Obstructing View at Intersections
 62.07 Vehicle Sound System Limits

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.

23. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
24. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
25. Section 321.218 – Operating without valid driver’s license or when disqualified.
26. Section 321.219 – Permitting unauthorized minor to drive.
27. Section 321.220 – Permitting unauthorized person to drive.
28. Section 321.221 – Employing unlicensed chauffeur.
29. Section 321.222 – Renting motor vehicle to another.
30. Section 321.223 – License inspected.
31. Section 321.224 – Record kept.
32. Section 321.232 – Speed detection jamming devices; penalty.
33. Section 321.234A – All-terrain vehicles.
34. Section 321.235A – Electric personal assistive mobility devices.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
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 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container; drivers.
51. Section 321.284A – Open container; passengers.
52. Section 321.288 – Control of vehicle; reduced speed.

54. Section 321.295 – Limitation on bridge or elevated structures.
55. Section 321.297 – Driving on right-hand side of roadways; exceptions.
56. Section 321.298 – Meeting and turning to right.
57. Section 321.299 – Overtaking a vehicle.
58. Section 321.302 – Overtaking and passing.
59. Section 321.303 – Limitations on overtaking on the left.
60. Section 321.304 – Prohibited passing.
61. Section 321.305 – One-way roadways and rotary traffic islands.
62. Section 321.306 – Roadways laned for traffic.
63. Section 321.307 – Following too closely.
64. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
65. Section 321.309 – Towing; convoys; drawbars.
66. Section 321.310 – Towing four-wheel trailers.
67. Section 321.312 – Turning on curve or crest of grade.
68. Section 321.313 – Starting parked vehicle.
69. Section 321.314 – When signal required.
70. Section 321.315 – Signal continuous.
71. Section 321.316 – Stopping.
72. Section 321.317 – Signals by hand and arm or signal device.
73. Section 321.318 – Method of giving hand and arm signals.
74. Section 321.319 – Entering intersections from different highways.
75. Section 321.320 – Left turns; yielding.
76. Section 321.321 – Entering through highways.
77. Section 321.322 – Vehicles entering stop or yield intersection.
78. Section 321.323 – Moving vehicle backward on highway.
79. Section 321.323A – Approaching certain stationary vehicles.
80. Section 321.324 – Operation on approach of emergency vehicles.
81. Section 321.324A – Funeral processions.
82. Section 321.325 – Pedestrians subject to signals.
83. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
84. Section 321.330 – Use of crosswalks.
85. Section 321.332 – White canes restricted to blind persons.
86. Section 321.333 – Duty of drivers approaching blind persons.

88. Section 321.340 – Driving through safety zone.
89. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
90. Section 321.342 – Stop at certain railroad crossings; posting warning.
91. Section 321.343 – Certain vehicles must stop.
92. Section 321.344 – Heavy equipment at crossing.
93. Section 321.344B – Immediate safety threat; penalty.
94. Section 321.354 – Stopping on traveled way.
95. Section 321.359 – Moving other vehicle.
96. Section 321.362 – Unattended motor vehicle.
97. Section 321.363 – Obstruction to driver’s view.
98. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
99. Section 321.365 – Coasting prohibited.
100. Section 321.366 – Acts prohibited on fully controlled-access facilities..
101. Section 321.367 – Following fire apparatus.
102. Section 321.368 – Crossing fire hose.
103. Section 321.369 – Putting debris on highway.
104. Section 321.370 – Removing injurious material.
105. Section 321.371 – Clearing up wrecks.
106. Section 321.372 – School buses.
107. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
108. Section 321.381A – Operation of low-speed vehicles.
109. Section 321.382 – Upgrade pulls; minimum speed.
110. Section 321.383 – Exceptions; slow vehicles identified.
111. Section 321.384 – When lighted lamps required.
112. Section 321.385 – Head lamps on motor vehicles.
113. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
114. Section 321.387 – Rear lamps.
115. Section 321.388 – Illuminating plates.
116. Section 321.389 – Reflector requirement.
117. Section 321.390 – Reflector requirements.
118. Section 321.392 – Clearance and identification lights.
119. Section 321.393 – Color and mounting.

120. Section 321.394 – Lamp or flag on projecting load.
121. Section 321.395 – Lamps on parked vehicles.
122. Section 321.398 – Lamps on other vehicles and equipment.
123. Section 321.402 – Spot lamps.
124. Section 321.403 – Auxiliary driving lamps.
125. Section 321.404 – Signal lamps and signal devices.
126. Section 321.404A – Light-restricting devices prohibited.
127. Section 321.405 – Self-illumination.
128. Section 321.408 – Back-up lamps.
129. Section 321.409 – Mandatory lighting equipment.
130. Section 321.415 – Required usage of lighting devices.
131. Section 321.417 – Single-beam road-lighting equipment.
132. Section 321.418 – Alternate road-lighting equipment.
133. Section 321.419 – Number of driving lamps required or permitted.
134. Section 321.420 – Number of lamps lighted.
135. Section 321.421 – Special restrictions on lamps.
136. Section 321.422 – Red light in front.
137. Section 321.423 – Flashing lights.
138. Section 321.430 – Brake, hitch, and control requirements.
139. Section 321.431 – Performance ability.
140. Section 321.432 – Horns and warning devices.
141. Section 321.433 – Sirens, whistles, and bells prohibited.
142. Section 321.434 – Bicycle sirens or whistles.
143. Section 321.436 – Mufflers, prevention of noise.
144. Section 321.437 – Mirrors.
145. Section 321.438 – Windshields and windows.
146. Section 321.439 – Windshield wipers.
147. Section 321.440 – Restrictions as to tire equipment.
148. Section 321.441 – Metal tires prohibited.
149. Section 321.442 – Projections on wheels.
150. Section 321.444 – Safety glass.
151. Section 321.445 – Safety belts and safety harnesses; use required.
152. Section 321.446 – Child restraint devices.
153. Section 321.449 – Motor carrier safety regulations.

- 154. Section 321.449A – Rail crew transport drivers.
- 155. Section 321.450 – Hazardous materials transportation.
- 156. Section 321.454 – Width of vehicles.
- 157. Section 321.455 – Projecting loads on passenger vehicles.
- 158. Section 321.456 – Height of vehicles; permits.
- 159. Section 321.457 – Maximum length.
- 160. Section 321.458 – Loading beyond front.
- 161. Section 321.460 – Spilling loads on highways.
- 162. Section 321.461 – Trailers and towed vehicles.
- 163. Section 321.462 – Drawbars and safety chains.
- 164. Section 321.463 – Maximum gross weight.
- 165. Section 321.465 – Weighing vehicles and removal of excess.
- 166. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. The City 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 riding upon any bicycle, coaster, roller skates, in-line skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

62.06 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard, or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

62.07 VEHICLE SOUND SYSTEM LIMITS. No person shall operate a motor vehicle sound reproduction/amplification system (stereo, tape player, compact disc player, radio, or any other sound reproduction/amplification device) so that it may be heard in a public place or on any public street, highway, or alley at a distance of fifty (50) feet or more from such vehicle and/or system. The provisions of this section may be enforced following personal observation/hearing of any police officer or upon receipt of a complaint made or filed with the police department by the person disturbed by such noise disturbance. The Police Chief or the Council may grant a temporary variance to this section to facilitate special events. The Police Chief is specifically authorized to revoke the granted variance if the applicant fails to meet any of the limitations placed upon the granting of the variance and/or other circumstances occurring subsequent to the granting of the variance which in the opinion of the issuing authority require such revocation.

62.08 ENGINE BRAKES AND COMPRESSION BRAKES

1. It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle, except in response to an imminent traffic accident.
2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred (300) feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

CHAPTER 63 SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 30 MPH Speed Zones. A speed in excess of thirty miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Market Street, southbound, from a point 160 feet south of the center of Davenport Street to a point 128 feet south of the center of Chicago Street.
 - B. On Market Street, northbound, from a point 31 feet north of the center of Chicago Street to a point 160 feet south of the center of Davenport Street.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Market Street from a point 40 feet south of the center of Birch Street to a point 160 feet south of the center of Davenport Street.

- B. On Market Street, southbound, from a point 128 feet south of the center of Chicago Street to a point 128 feet south of the center of Mantz Avenue.
- C. On Market Street, northbound, from a point 128 feet south of the center of Mantz Avenue to a point 31 feet north of Chicago Street.
- D. On Pacific Street from a point 138 feet south of the south driveway of the Audubon County Memorial Hospital to the south City limits.

63.05 MINIMUM SPEED. A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

CHAPTER 64 TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.
4. The Police Chief may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified above be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

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

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

1. At the intersection of Broadway Street and Tracy Street.

CHAPTER 65 STOP OR YIELD REQUIRED

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

65.07 Stop Before Crossing Sidewalk
 65.08 Stop When Traffic Is Obstructed
 65.09 Yield to Pedestrians in Crosswalks
 65.10 Official Traffic Controls
 65.11 Evasive Travel Through an Intersection

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

(Code of Iowa, Sec. 321.345)

1. East Division Street, from the south corporate limit to the north corporate limit.
2. South Division Street, from the east corporate limit to the west corporate limit.
3. Market Street, (U. S. Highway 71) from the south corporate limit to the north corporate limit.
4. West Broadway Street, from Market Street to the west corporate limit.

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

(Code of Iowa, Sec. 321.345)

1. Broadway. Vehicles traveling east on Broadway shall stop at Seventh Avenue.
2. Chicago Street. Vehicles traveling east on Chicago Street shall stop at Seventh Avenue.
3. Chicago Street. Vehicles traveling on Chicago Street shall stop at Washington Street.
4. Chicago Street. Vehicles traveling on Chicago Street shall stop at Tracy Street.
5. Chicago Street. Vehicles traveling on Chicago Street shall stop at Leroy Street.
6. Church Street. Vehicles traveling on Church Street shall stop at Broadway.
7. Church Street. Vehicles traveling south on Church Street shall stop at Chicago Street.
8. Davis Street. Vehicles traveling west on Davis Street shall stop at East Division Street.
9. East Division Street. Vehicles traveling south on East Division Street shall stop at Hahn Street.
10. East Division Street. Vehicles traveling north on East Division Street shall stop at Mantz Avenue.

11. East Division Street. Vehicles traveling on East Division Street shall stop at South Street.
12. East Division Street. Vehicles traveling on East Division Street shall stop at Chicago Street.
13. East Division Street. Vehicles traveling on East Division Street shall stop at Broadway.
14. First Avenue. Vehicles traveling south on First Avenue shall stop at Hahn Street.
15. First Avenue. Vehicles traveling north on First Avenue shall stop at North Division Street.
16. Hahn Street. Vehicles traveling east on Hahn Street shall stop at Second Avenue.
17. Leroy Street. Vehicles traveling on Leroy Street shall stop at South Street.
18. Leroy Street. Vehicles traveling north on Leroy Street shall stop at South Park Place.
19. Leroy Street. Vehicles traveling on Leroy Street shall stop at Davenport Street.
20. Leroy Street. Vehicles traveling south on Leroy Street shall stop at North Park Place.
21. North Division Street. Vehicles traveling east on North Division Street shall stop at Seventh Avenue.
22. Second Avenue. Vehicles traveling north on Second Avenue shall stop at Broadway.
23. Second Avenue. Vehicles traveling south on Second Avenue shall stop at Hahn Street.
24. Second Avenue. Vehicles traveling on Second Avenue shall stop at South Street.
25. South Street. Vehicles traveling east on South Street shall stop at Seventh Avenue.
26. South Division West . Vehicles traveling east on South Division West shall stop at South Pacific Avenue.
27. Southside Avenue. Vehicles traveling west on Southside Avenue shall stop at Third Avenue.
28. Third Avenue. Vehicles traveling north on Third Avenue shall stop at Broadway.
29. Tracy Street. Vehicles traveling on Tracy Street shall stop at Northwestern Avenue and North Division Street.
30. Tracy Street. Vehicles traveling on Tracy Street shall stop at Davenport Street.

31. Tracy Street. Vehicles traveling south on Tracy Street shall stop at North Park Place.
32. Tracy Street. Vehicles traveling north on Tracy Street shall stop at South Park Place.
33. Washington Street. Vehicles traveling on Washington Street shall stop at Broadway.
34. Washington Street. Vehicles traveling on Washington Street shall stop at Davenport Street.
35. Washington Street. Vehicles traveling on Washington Street shall stop at South Division Street.
36. Lynn Avenue. Vehicles traveling west on Lynn Avenue shall stop at Fourth Avenue.
37. Davis Street. Vehicles traveling on Davis Street shall stop at First Avenue.
38. Hahn Street. Vehicles traveling on Hahn Street shall stop at Second Avenue.
39. Third Avenue. Vehicles traveling on Third Avenue shall stop at Hahn Street.
40. First Avenue. Vehicles traveling on First Avenue shall stop at Brayton Street.
41. Hahn Street. Vehicles traveling east on Hahn Street shall stop at Third Avenue.
42. Hahn Street. Vehicles traveling on Hahn Street shall stop at E. Division Street.
43. First Avenue. Vehicle traveling on First Avenue shall stop at S. Division Street.
44. First Avenue. Vehicle traveling on First Avenue shall stop at South Street.
45. Freeman Street. Vehicle traveling east on Freeman Street shall stop at E. Division Street.
46. Third Avenue. Vehicle traveling north on Third Avenue shall stop at Hahn Street.
47. Third Avenue. Vehicle traveling on Third Avenue shall stop at South Division Street.
48. Third Avenue. Vehicle traveling on Third Avenue shall stop at South Street.
49. Third Avenue. Vehicle traveling on Third Avenue shall stop at Chicago Street.
50. Mantz Street. Vehicles traveling west on Mantz Street shall stop at Market Street.

51. Mantz Street. Vehicles traveling east on Mantz Street shall stop at E. Division Street.
52. North Arlington Street. Vehicles traveling on North Arlington Street shall stop at E. Division North.
53. N. Division Street. Vehicle traveling east on N. Division Street shall stop at Third Avenue.
54. N. Division Street. Vehicle traveling on N. Division Street shall stop at E. Division Street.
55. Pacific Avenue. Vehicle traveling south on Pacific Avenue shall stop at S. Division Street West.
56. Second Avenue. Vehicle traveling on Second Avenue shall stop at South Division Street.
57. Seventh Avenue. Vehicles traveling south on Seventh Avenue shall stop at S. Division Street.
58. South Street. Vehicle traveling west on South Street shall stop at Market Street.
59. South Arlington Street. Vehicles traveling on South Arlington Street shall stop at E. Division Street North.
60. South Division Street. Vehicle traveling west on South Division Street shall stop at Market Street.
61. South Division Street. Vehicle traveling on South Division Street shall stop at E. Division Street.
62. Washington Street. Vehicle traveling on Washington Street shall stop at South Street.
63. Washington Street. Vehicle traveling on Washington Street shall stop at Market Street.
64. South Division Street. Vehicles traveling west on South Division Street shall stop at Third Avenue.
65. South Division Street. Vehicles traveling east on South Division Street shall stop at Third Avenue.
66. South Street. Vehicles traveling east on South Street shall stop at Third Avenue.
67. Chicago Street. Vehicles travelling east on Chicago Street shall stop at Third Avenue

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:
(Code of Iowa, Sec. 321.345)

1. Intersection of South Street and East Division Street.
2. Intersection of Third Avenue and North Division Street.
3. Intersection of South Street and Tracy.

65.04 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three way stop intersections:

1. Intersection of Broadway, Scott Street and East Division Street.
2. Intersection of Third Avenue North, Third Avenue South and Hahn Street.

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

(Code of Iowa, Sec. 321.345)

1. Southside Avenue. Vehicles traveling west on Southside Avenue shall yield at East Division Street.
2. Circle Drive. Vehicles traveling west on Circle Drive shall yield at East Division Street.
3. Golden Street. Vehicles traveling on Golden Street shall yield at South Division Street West.
4. West Broadway. Vehicles traveling west on West Broadway shall yield at Pacific Avenue.
5. Broadway. Vehicles traveling east on Broadway shall yield at Tracy Street.
6. Broadway. Vehicles traveling west on Broadway shall yield at Leroy Street.
7. First Avenue. Vehicles traveling on First Avenue shall yield at Broadway.
8. Second Avenue. Vehicles traveling north on Second Avenue shall yield at North Division Street.
9. Second Avenue. Vehicles traveling on Second Avenue shall yield at Chicago Street.
10. Second Avenue. Vehicles traveling south on Second Avenue shall yield at Broadway.
11. Ridgeway Drive. Vehicles traveling north on Ridgeway Drive shall yield at Broadway.
12. Third Avenue. Vehicles traveling south on Third Avenue shall yield at Broadway.
13. Fifth Avenue. Vehicles traveling on Fifth Avenue shall yield at Broadway.
14. Fifth Avenue. Vehicles traveling north on Fifth Avenue shall yield at North Division Street.
15. Scott Street. Vehicles traveling north on Scott Street shall yield at Davenport Street.
16. North Division Street. Vehicles traveling east on North Division Street shall yield at Davenport Street.

17. Church Street. Vehicles traveling on Church Street shall yield at Davenport Street.
18. Nasby Avenue. Vehicles traveling south on Nasby Avenue shall yield at North Division Street.
19. Pacific Avenue. Vehicles traveling north on Pacific Avenue shall yield at North Division Street.
20. Washington Street. Vehicles traveling north on Washington Street shall yield at North Street.
21. North Street. Vehicles traveling on North Street shall yield at Tracy Street.
22. Third Street. Vehicles traveling south on Third Street shall yield at Southside Avenue.
23. Third Street. Vehicles traveling on Third Street shall yield at Stadium Drive.
24. Southside Avenue. Vehicles traveling east on Southside Avenue shall yield at East Division Street.
25. Brayton Street. Vehicles traveling west on Brayton Street shall yield at Second Avenue.
26. Southside Avenue. Vehicles traveling east on Southside Avenue shall yield at Third Avenue.
27. Brookside Drive. Vehicles traveling north on Brookside Drive shall yield at Hahn Street.
28. First Avenue. Vehicles traveling on First Avenue shall yield at Chicago Street.
29. Chicago Street. Vehicles traveling west on Chicago Street shall yield at Third Avenue.
30. Brayton Street. Vehicles traveling west on Brayton Street shall yield at Third Avenue.

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

(Code of Iowa, Sec. 321.249)

1. Market Street at South Street.
2. Tracy Street at South Street.
3. Leroy Street at South Street.
4. East Division Street at Brayton Street.
5. Leroy Street at East Division Street.
6. South Street at Tracy Street.

7. South Street at Leroy Street.

65.07 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)

65.08 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.

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

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.256)

1. Intersection of Market Street (U.S. Highway 71) and Broadway.

65.11 EVASIVE TRAVEL THROUGH AN INTERSECTION. No person shall leave the street and drive a motor vehicle across land abutting an intersection to avoid traversing said intersection.

CHAPTER 66 LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits upon Certain Streets

66.04 Load Limits on Bridges

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

1. Three (3) ton limit for single axle and five (5) ton limit for double axle on Pacific Avenue from North Division Street to South Division Street.
2. Three (3) ton limit for single axle and five (5) ton limit for double axle on Golden Street from South Division Street to Broadway Street.
3. Three (3) ton limit for single axle and five (5) ton limit for double axle on Broadway Street from the bridge west of Market Street to Pacific Avenue.
4. Four (4) ton limit on North Division Street from Scott Street to Church Street.
5. Ten (10) ton limit on all axles for 7th Avenue from South Division Street to 190th Street.

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the 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. No person shall drive upon said bridge any vehicle weighing, loaded or unloaded, in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

CHAPTER 67 PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of 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 OF SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

CHAPTER 68 ONE-WAY TRAFFIC

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

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

1. Leroy Street shall be northbound only from South Park Place to North Park Place.
2. North Park Place shall be westbound only from Leroy Street to Tracy Street.
3. Tracy Street shall be southbound only from North Park Place to South Park place.
4. South Park Place shall be eastbound only from Tracy Street to Leroy Street.
5. Tracy Street shall be northbound only from South Division Street to South Street.
6. Alley between Broadway Street and Chicago Street shall be eastbound only from Washington Street to Tracy Street.
7. Alley between Broadway Street and Davenport Street shall be westbound only from Tracy Street to Washington Street.
8. Davenport Street shall be eastbound only from Church Street to Scott Street.
9. North Division Street shall be westbound only from the west driveway of the Friendship Home to Church Street.
10. Church Street shall be southbound only from North Division Street to Davenport Street.

CHAPTER 69 PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.07 Persons With Disabilities Parking
69.02 Parking on One-Way Streets	69.08 No Parking Zones
69.03 Angle Parking	69.09 All Night Parking Prohibited
69.04 Manner of Angle Parking	69.10 Truck Parking Limited
69.05 Parking for Certain Purposes Illegal	69.11 Limited Parking
69.06 Parking Prohibited	69.12 Snow Emergency Parking

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. South Street, on the south side, from Tracy Street to Leroy Street, excepting there from 128 feet measured from the curb on Tracy Street which is reserved as a drop-off zone for children..
2. Leroy Street, on the west side, from South Street to East Division Street.
3. Broadway Street, on both sides, from the eastern most point of bridge to 460 feet starting point to Church Street.
4. Broadway Street, on the north side, from Church Street to Scott Street.
5. Washington Street, on both sides, from the alley between Broadway Street and Davenport Street to Chicago Street.
6. Tracy Street, on the west side, from the alley between Broadway Street and Davenport Street to North Park Place.
7. Tracy Street, on the west side, from North Park Place to Chicago Street.
8. Leroy Street, on both sides, from North Park Place to South Park Place, and Leroy Street, on the west side, from Chicago Street to the alley between Chicago Street and South Park Place.
9. North Park Place, on both sides, from Tracy Street to Leroy Street.
10. South Park Place, on both sides, from Tracy Street to Leroy Street.
11. Leroy Street, on the east side, from Chicago Street to South Street.
12. Chicago Street, on the north side, from Tracy Street to Washington Street.

13. Tracy Street, on the east side, from South Park Place to the alley between South Park Place and Chicago Street.
14. Washington Street, on the west side, from the alley between Broadway Street and Davenport Street to Davenport Street.
15. East Division Street, on the west side, from Mantz Avenue to the south line of Stadium Drive.

69.04 MANNER OF ANGLE PARKING. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

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

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

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358[13])
14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection do not apply to a vehicle parked in any alley that is eighteen (18) feet wide or less, provided that said vehicle is parked to deliver goods or services.
(Code of Iowa, Sec. 321.236[1])

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

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

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

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

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

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

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

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

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

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

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

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

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

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

1. Birch Street, on the south side from Elm Street to Maple Street.

2. Brayton Street, on the south side from East Division Street to Third Avenue.
3. Broadway Street, on the north side from Second Avenue to Third Avenue.
4. Broadway Street, on the south side from Ridgeway Drive to Fifth Avenue.
5. Broadway Street, on the south side from Fifth Avenue to a point 235 feet east of Fifth Avenue.
6. Broadway Street, on the south side from Church Street to Second Avenue.
7. Brookside Drive, on the west side from Hahn Street to dead end.
8. Chestnut Street, on the south side from Nasby Avenue to dead end.
9. Chicago Street, on the north side from Second Avenue to Third Avenue.
10. Chicago Street, on the south side from Market Street to Second Avenue.
11. Church Street, on the east side from North Division Street to Davenport Street.
12. Church Street, on the west side from Davenport Street to Broadway Street.
13. Circle Drive, from East Division Street to a point 100 feet east of East Division Street.
14. Circle Drive, on the inner circle.
15. Davenport Street, on the south side from Market Street to East Division Street.
16. Davis Street, on the north side from East Division Street to Second Avenue.
17. East Division Street, on the west side from Northwestern Avenue to South Division Street.
18. East Division Street, on the west side from St. John's Lutheran Church to Stadium Drive.
19. East Division Street, on the east side from South Division Street to Hahn Street.
20. Elm Street, on the west side from Poplar Street to Walnut Street.
21. Fifth Avenue, on the east side from North Division Street to Ridgeway Drive.
22. First Avenue, on the east side from Hahn Street to Broadway Street.
23. First Avenue, on the west side from North Division Street to Broadway Street.
24. Freeman Avenue, on the south side from Washington Street to East Division Street.

25. Golden Street, on the west side from West Broadway Street to South Division Street.
26. Leroy Street, on the west side from Chicago Street to South Street.
27. Leroy Street, on the east side from South Street to East Division Street.
28. Leroy Street, on the west side from North Street to North Park Place.
29. Mantz Avenue, on the south side from U.S. Highway 71 (Market Street) to East Division Street.
30. Maple Street, on the west side from Poplar Street to Birch Street.
31. Market Street (U.S. Highway 71) from south corporate limits to north corporate limits.
32. Nasby Avenue, on the east side from Walnut Street to North Division Street.
33. North Division Street, on the north side from Market Street to Pacific Avenue.
34. North Division Street, on the south side one-half block to First Avenue.
35. North Division Street, on the south side from Fifth Avenue to Seventh Avenue.
36. North Street, on the south side from Market Street to Washington Street.
37. Oak Street, on the north side from Elm Street to Maple Street.
38. Pacific Avenue, on the east side from North Division Street to South Division Street.
39. Ridgeway Drive, on the west and south sides from Broadway Street to Fifth Avenue.
40. Scott Street, on the west side from Davenport Street to Broadway, except parking shall be permitted during the hours of 4:30 p.m. to 8:00 p.m. on Saturdays and 8:00 a.m. to 12:00 noon on Sundays.
41. Second Avenue, on the west side from North Division Street to Chicago Street.
42. Second Avenue, on the east side from Chicago Street to South Street.
43. Second Avenue, on the east side from South Street to Brayton Street.
44. Second Avenue, on the west side from Brayton Street to South Division Street.
45. Second Avenue, on the east side from South Division Street to Davis Street.
46. South Division Street, on the north side from Audubon Country Club to Golden Street.
47. South Street, on the south side from Market Street to Tracy Street.
48. South Street, on the south side from Leroy Street to Third Avenue.
49. South Street, on the north side from Tracy Street to Leroy Street.

50. South Division Street, on the north side from Market Street to Tracy Street.
51. South Division Street, on the south side from Tracy Street to East Division Street.
52. South Division Street, on the north side from East Division Street to Third Avenue.
53. Third Avenue, on the east side from Broadway Street to South Street.
54. Tracy Street, on the west side from North Street to Davenport Street.
55. Tracy Street, on the east side from Davenport Street to North Park Place.
56. Tracy Street, on the west side from Chicago Street to South Street.
57. Tracy Street, on the east side from South Street to South Division Street.
58. Walnut Street, on the south side from Elm Street to Maple Street.
59. Washington Street, on the west side from North Street to Davenport Street.
60. Washington Street, on the east side from Chicago Street to US Highway 71 (Market Street).
61. West Broadway Street, on the north side, from Golden Street to South Division Street.
62. The north 200 feet of the east side of the alley bisecting Block Sixteen, City of Audubon, Iowa.
63. Southside Avenue, on both sides from Third Avenue and East Division Street.
64. Stadium Drive, on the west 705 feet of the north side, from East Division Street to Third Avenue.
65. Stadium Drive, on the south side from East Division Street to Third Avenue.
66. Crestview Drive, on the north side from the back side of the eastside curb of Maple Street thence easterly 140 feet.
67. North Division Street, on the north side from the west right-of-way line of Tracy Street westerly a distance of 250 feet.
68. North Division Street on the south side beginning at a point 280 feet west of East Division Street thence westerly a distance of 300 feet.
69. North Division Street, on the south side from Market Street to Tracy Street.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except persons on emergency calls, shall park a vehicle on any of the following named streets between the hours of 2:00 a.m. and 5:00 a.m. of any day.

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

1. Tracy Street, on both sides from South Park Place to North Park Place.
2. Leroy Street, on both sides from South Park Place to North Park Place.

3. South Park Place.
4. North Park Place.

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner that will not interfere with other traffic.

- A. Broadway Street, on both sides from Market Street to Tracy Street.
- B. Tracy Street, on the west side from North Park Place to Broadway Street.
- C. South Park Street, on the south side from Tracy Street to Leroy Street.
- D. Washington Street, on the west side from Chicago Street to Broadway Street.

2. Residential Districts. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle on any street located within any of the following zoned districts of the City: One-Family Residential District (First District); One-Family Residential District (Second District); Two-Family Residential District; Multiple-Family Residential District. When actually receiving or delivering merchandise or cargo, such vehicles shall be stopped or parked in a manner which will not interfere with other traffic.

69.11 LIMITED PARKING.

1. It is unlawful to park any vehicle for a continuous period of more than twenty (20) minutes upon the following designated streets:

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

- A. Tracy Street, on the west side commencing at a point 60 feet from the centerline of South Street and extending south a distance of 40 feet.

2. Except where otherwise stated in the Code of Ordinances, it is unlawful to park any vehicle for a continuous period of more than forty-eight (48) hours upon all city streets.

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

69.12 SNOW EMERGENCY PARKING.

1. The Public Works Director is hereby authorized to proclaim, when deemed appropriate and necessary, a snow emergency.
2. The parking ban provided herein shall be of uniform application and the City Clerk is directed to widely publicize the requirements and restrictions, using all available news media. When predictions or occurrences indicate the need, the Public Works Director shall proclaim a snow emergency and inform the media to publicize the proclamation. Such emergency may be extended or shortened when conditions warrant.
3. In the event of a snow emergency proclamation, no person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency unless the snow has been removed or plowed from said street or alley or parking area and the snow has ceased to fall. During such emergency, parking shall specifically be prohibited between the hours of 5:00 a.m. and 4:00 p.m. except that parking shall be allowed after the snow has ceased to fall and cleaning operations have been completed.

CHAPTER 70 TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 71 RESERVED

CHAPTER 72 RESERVED

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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

75.08 Registration Requirements

75.09 Exempt Vehicles and Operators

75.10 Penalties

75.01 PURPOSE. Iowa Code §321.1(90) provides that a “vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. Iowa Code §321.1(42) provides that a “motor vehicle” means a vehicle which is self-propelled. Iowa Code §321.1(4) provide that “all-terrain vehicle” includes off-road utility vehicles. Iowa Code §321.174 provides that a person, except those exempted, shall not operate any motor vehicle upon a highway in this state unless the person has a driver’s license issued by the Department of Transportation valid for the vehicle’s operation. Iowa Code §321.234A provides that certain persons may operate all-terrain vehicles on a highway. Iowa Code §321.20B provides that a person shall not drive a motor vehicle on the highways of this State unless financial responsibility is in effect for the motor vehicle and unless the driver has proof of financial responsibility. A riding trail means an all-terrain vehicle riding trail on any public land designated by a political subdivision.

(Iowa Code §321I.1(7))

This ordinance designates the streets and portion of roadways where all-terrain vehicles and off-road utility vehicles may operate. Iowa Code Chapter 321I.1 authorizes the City to evaluate and designate roadways and trails for operation which does not unduly interfere with or constitute an undue hazard to conventional motor vehicle traffic. Registered all-terrain vehicles and off-road utility vehicles when operated with lights and by insured and licensed drivers do not unduly interfere with or constitute an undue hazard to conventional motor vehicle traffic. Use should be allowed consistent with treatment similar to motorcycles. All streets and highways (except State highways) in the City are hereby designated to be riding trails.

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

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

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

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

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

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

operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The crossing is made at an angle of approximately 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 that constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

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

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

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

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

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATV, off-road motorcycle or off-road utility vehicles shall comply with the following restrictions as to where ATV, off-road motorcycle or off-road utility vehicles may be operated within the City:

1. **Streets.** ATV, off-road motorcycle or off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATV, off-road motorcycle or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

2. **Trails.** ATV, off-road motorcycle or off-road utility vehicles shall not be operated on snowmobile trails except where designated.

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

3. **Railroad Right-of-Way.** ATV, off-road motorcycle or off-road utility vehicles shall not be operated on an operating railroad right-of-way. An ATV, off-road motorcycle or off-road utility vehicles may be driven directly across a

railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATV, off-road motorcycle or off-road utility vehicles 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. ATV, off-road motorcycle or off-road utility vehicles 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, off-road motorcycle or off-road utility vehicles or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV, off-road motorcycle or off-road utility vehicle or snowmobile. The owner of an ATV, off-road motorcycle or off-road utility vehicles or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV, off-road motorcycle or off-road utility vehicles or snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the ATV, off-road motorcycle or off-road utility vehicles 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, off-road motorcycle or off-road utility vehicles or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.08 REGISTRATION REQUIREMENTS. An all-terrain vehicle, off-road motorcycle or off-road utility vehicles operated on a roadway shall be registered pursuant to the Iowa Code.

1. Those registered in Iowa shall display the current registration decal and shall carry the certificate on board.
2. Those registered in another state shall display the current indicia of registration and shall carry the certificate on board in compliance with the other state law.

75.09 EXEMPT VEHICLES AND OPERATORS. This ordinance does not apply to any exemption under the Iowa Code for all-terrain vehicle, off-road motorcycles and off-road utility vehicles operated pursuant to Iowa Code §321I.9 (government and farm implements) or Iowa Code §321.234A (incidental to and use for agricultural purposes, government, public utilities, licensed engineers and licensed surveyors) or Iowa Code §§352.2, 321I.14(3)(b) (farm operations).

75.10 PENALTIES. Violation of this ordinance shall constitute a simple misdemeanor punishable by a fine only as provided by the Iowa Code plus the applicable court surcharges and costs.

CHAPTER 76 BICYCLE REGULATIONS

<p>76.01 Scope of Regulations</p> <p>76.02 Traffic Code Applies</p> <p>76.03 Double Riding Restricted</p> <p>76.04 Two Abreast Limit</p> <p>76.05 Speed</p> <p>76.06 Emerging from Alley or Driveway</p> <p>76.07 Carrying Articles</p>	<p>76.08 Riding on Sidewalks</p> <p>76.09 Towing</p> <p>76.10 Improper Riding</p> <p>76.11 Parking</p> <p>76.12 Equipment Requirements</p> <p>76.13 Special Penalty</p>
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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 that by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

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

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

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

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

76.05 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])

76.06 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])

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article that prevents the rider from keeping at least one hand upon the handlebars.

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

76.08 RIDING ON SIDEWALKS. The following provisions 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])

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

76.10 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.

76.11 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])

76.12 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 emitting a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.
(Code of Iowa, Sec. 321.397)
2. Brakes Required. Every bicycle shall be equipped with a brake that will enable the operator to make the braked wheel skid on dry, level, clean pavement.
(Code of Iowa, Sec. 321.236[10])

76.13 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 this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

CHAPTER 77 SKATEBOARDS AND SIMILAR CONVEYANCES

77.01 Prohibited in Certain Locations

77.02 Exceptions

77.03 Traffic Code Applies

77.04 Usage in Permissible Areas

77.05 Double Riding Restricted

77.06 Towing

77.01 PROHIBITED IN CERTAIN LOCATIONS. Skateboards, skates, in-line skates, manually powered scooters, and other similar conveyances are prohibited in the following locations, unless permitted under Section 77.02 or otherwise allowed under Section 77.03 of this chapter.

1. In the area bounded by the south line of Chicago Street on the south, the west line of Market Street on the west, the north line of Davenport Street on the North, and the east line of Leroy Street on the east; the prohibited area includes the area of said streets within said boundaries.
2. In all City parks (east of Market Street).

77.02 EXCEPTIONS. Skateboards, skates, in-line skates, manually powered scooters or other similar conveyances may be used in the prohibited areas where the City Council temporarily allows such conveyances to be used in restricted areas for a special event.

77.03 TRAFFIC CODE APPLIES. Individuals shall be allowed to use skateboards, skates, in-line skates, manually powered scooters, and other similar conveyances upon a roadway outside the prohibited area set out in Section 77.01. Such individuals 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 skates, inline skates, manually powered scooters, or other similar conveyances for an extended period of time, the person shall be subject to all regulations applicable to pedestrians.

77.04 USAGE IN PERMISSIBLE AREAS. Persons using skateboards, skates, in-line skates, manually powered scooters, or other similar conveyances in permitted areas shall:

1. Stay as far as possible to the right of the sidewalk, road, street, or alley, except when necessary to make a left-hand turn.
2. Operate with the flow of traffic.
3. Operate in a careful and prudent manner.
4. Wear reflective devices or reflective clothing after dusk.
5. Shall give the right-of-way to any pedestrian, motor vehicle, or any other user of a sidewalk or public place and shall not interfere with the proper use of any sidewalk or public place by any other person.

77.05 DOUBLE RIDING RESTRICTED. No skateboard, set of skates, set of in-line skates, manually powered scooters, or other similar conveyances shall be used to carry more persons at one time than the number for which said conveyances are designed and equipped.

77.06 TOWING. It is unlawful for any persons operating skateboards, skates, in-line skates, manually powered scooters, or other similar conveyances to cling or attach to any other vehicle while that vehicle is moving.

CHAPTER 78 GOLF CARTS

78.01 Purpose
 78.02 Operation Permitted
 78.03 Prohibited Streets
 78.04 Traffic Code Applies

78.05 Riding on Golf Carts
 78.06 Driver's License Required
 78.07 Equipment
 78.08 Hours of Operation

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

78.02 OPERATION PERMITTED. Golf carts may be operated on City streets only for the purpose of traveling from a point of origin to and from the Audubon Golf Course. In so doing, the shortest and most direct street route to and from the point of origin to the golf course shall be used. Golf carts shall be operated only on the roadway or traveled portion of the street and shall not be operated on any sidewalk or that part of the street between the curb line and the property line.

78.03 PROHIBITED STREETS.

1. Golf carts shall not be operated upon any City Street which is a primary road extension through the City. However, golf carts may cross such primary road extension.
2. Golf carts shall not be operated on North Park, South Park, Broadway Street from Market Street to Tracy Street, or Leroy Street from Chicago Street to Davenport Street.

78.04 TRAFFIC CODE APPLIES. Every person operating a golf cart upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

78.05 RIDING ON GOLF CARTS. A person operating a golf cart shall not ride other than on a permanent regular seat attached thereto. No golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped.

78.06 DRIVER'S LICENSE REQUIRED. Any person operating a golf cart upon any City Street shall possess a valid motor vehicle license issued by the State.

78.07 EQUIPMENT. Golf carts operated upon any street shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation, and shall have adequate brakes.

78.08 HOURS OF OPERATION. Golf carts may be operated on City streets only between sunrise and sunset.

CHAPTER 79 RESERVED

CHAPTER 80 ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.

A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody

the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 81 LOW SPEED VEHICLES AND SCOOTERS

81.01 Definitions

81.02 Use of Certain Streets

81.03 Rules Applicable to Operation

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

1. “Electric scooter” means an electrically driven scooter with two (2) or more wheels and designed so that the rider or operator sits or stands on the vehicle while the same is in motion, and having a top attainable speed of less than twenty-five (25 mph) miles per hour.
2. “Low speed vehicle” means any four wheeled electric or gas vehicle whose top speed is greater than 20 mph but not greater than 25 mph on a paved level surface and which is manufactured in compliance with those Federal motor vehicle safety standards for low speed vehicles set forth at 49 CFR § 571.500, and in effect on January 1, 2001.
3. “Motorized cart” means every motor vehicle having no less than three wheels and an unladen weight of 1300 pounds which cannot operate at more than 20 mph and which is designed to carry not more than two (2) persons including the driver.
4. “Motorized scooter” means a motor driven scooter equipped with two (2) or more wheels and designed so that the rider or operator sits or stands on the vehicle while the same is in motion, and having a top attainable speed of less than twenty-five (25 mph) miles per hour.
5. “Operate” means to control the operation of the vehicle.
6. “Operator” means a person who is in actual control of a vehicle.
7. “Street” means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

81.02 USE OF CERTAIN STREETS. The Council designates all streets within the City for use by persons operating electric scooters, motorized scooters, or low speed vehicles, provided that each of said streets or sections of streets meet at least the following minimum criteria:

1. The official speed limit established for the street or portion of street shall be no more than 35 miles per hour.
2. The street or portion of street must, in the opinion of the Council, have sufficient capacity, lighting and right-of-way to safely accommodate all such traffic, including ordinary motor vehicle traffic as well as pedestrians.

81.03 RULES APPLICABLE TO OPERATION. No person shall operate any electric scooter, motorized scooter, or low speed vehicle upon any public street designated for such use unless such person fully complies with and operates such vehicle in accordance with the following rules:

1. No person shall drive or otherwise operate any motorized scooter, electric scooter, motorized cart, or low speed vehicle unless such person has a valid driver’s license.

2. No person shall drive or otherwise operate any motorized scooter or electric scooter vehicle except during daylight hours, or such more restrictive hours as may be prescribed by the Council for each street or portion of street over which the operation of such vehicles is permitted. Low speed vehicles may be operated at all times provided that they have working approved lighting, including not less than two head lamps, two tail lamps with brake lamps, and left and right turn signals, both front and rear.
3. No person shall drive or otherwise operate any motorized scooter, electric scooter or low speed vehicle except in complete compliance with rules of the road and all other applicable traffic laws relating to the operation of motor vehicles and pedestrian traffic.
4. No person shall drive or otherwise operate any motorized scooter, electric scooter, or low speed vehicle in any manner except a safe and courteous manner, having due regard for the conditions of the street, weather conditions, and the safety of others
5. No person shall drive or otherwise operate any motorized scooter, electric scooter, or low speed vehicle with more passengers than the designed capacity of the vehicle, including the driver.
6. No person shall drive or otherwise operate any motorized scooter, electric scooter, or low speed vehicle on any property within the City, including private property, while under the influence of alcohol or drugs.

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CHAPTER 90 WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Public Works Director	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Application for Service	90.15 Interior Valve
90.06 Connection Charge	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting Off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	90.20 Water Well Construction Prohibition

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

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

90.02 PUBLIC WORKS DIRECTOR. The Public Works Director shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Public Works Director shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Public Works Director may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

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

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

90.05 APPLICATION FOR SERVICE. Before any person makes a connection with the public water system, an application for service must be made to the City. The application for service shall include the address of the property, the name of the property

owner, the name and address of the person who will do the work, and the general uses of the water. The property owner shall complete installation and connection of the service line to the public water system within sixty (60) days after the application for service, except that when such time period is inequitable or unfair due to conditions beyond the control of the property owner, an extension of time within which to complete the work may be granted.

90.06 CONNECTION CHARGE. The person who makes the application for service shall pay to the Clerk a connection charge in the amount of fifty dollars (\$50.00).

(Code of Iowa, Sec. 384.84)

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

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

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

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

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Public Works Director and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Public Works Director shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Public Works Director, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Public Works Director in such form as the Public Works Director shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Public Works Director. Pipe must be

laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

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

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

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

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

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

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

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

90.18 SHUTTING OFF WATER SUPPLY. The Public Works Director may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Public Works Director has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Public Works Director to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 WATER WELL CONSTRUCTION PROHIBITION. No person shall drill, construct, install, replace, or rehabilitate any water well used for any purpose on any property located within the City limits intended or used for human habitation, occupancy or use. All residences and business establishments shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source. The City reserves the right to make the final determination as to the availability of a public water main. Exceptions to this limitation on future well permits may be made for non-potable water wells for the purpose of irrigation, livestock watering, industrial non-drinking uses and "closed-loop" systems. Any exceptions will comply with the rules and guidelines of the Iowa Department of Natural Resources in place at that time.

CHAPTER 91 WATER METERS

91.01 Purpose
 91.02 Water Use Metered
 91.03 Fire Sprinkler Systems; Exception
 91.04 Location of Meters
 91.05 Meter Setting

91.06 Meter Costs
 91.07 Meter Repairs
 91.08 Right of Entry
 91.09 Meter Testing

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS; EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Public Works Director. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Public Works Director and shall be of a design and construction approved by the Public Works Director.

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Public Works Director shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY. The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.09 METER TESTING. The Public Works Director shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay the entire testing charge.

CHAPTER 92 WATER RATES

92.01 Service Charges
 92.02 Rates For Service
 92.03 Rates Outside the City
 92.04 Billing for Water Service
 92.05 Service Discontinued
 92.06 Lien for Nonpayment

92.07 Lien Exemption
 92.08 Lien Notice
 92.09 Customer Deposits
 92.10 Requested Discontinuance of Service
 92.11 Temporary Vacancy

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

1. First 1,600 gallons per month at \$21.00 (minimum bill).
2. All over 1,600 gallons per month at 8.00 per 1,000 gallons.

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred and fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 and 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters will be read on a monthly basis.
2. Bills Issued. Water service charges shall be billed on a monthly basis. The Clerk shall prepare and issue bills for combined service accounts on the first day of the month.
3. Bills Payable. Bills for combined service accounts shall be due and payable on the 15th day of the month in which the bill is issued by the Clerk.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The City Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the

notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Mayor finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of fifty dollars (\$50.00) shall be charged for shutting the water off at the curb valve and a fifty dollar (\$50.00) fee shall be charged for restoring service. Said fees must be paid before service is restored.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service

charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. A customer deposit of one hundred fifty dollars (\$150.00) shall be required of all customers having no established credit record, or who have a prior record of failure to pay water bills rendered by the City.

(Code of Iowa, Sec. 384.84)

92.10 REQUESTED DISCONTINUANCE OF SERVICE. Any customer desiring to discontinue water service to his or her premises for any reason must give notice of discontinuance in writing to the City. A fee of fifty dollars (\$50.00) shall be charged for shutting the water off at the curb valve and a fifty dollar (\$50.00) fee shall be charged for restoring service voluntarily discontinued.

92.11 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a fifty dollar (\$50.00) fee collected for shutting the water off at the curb valve and a fifty dollar (\$50.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

CHAPTER 93 WATER SHORTAGE

93.01 Authority to Restrict Water Usage
93.02 Exceptions to Regulations

93.03 Water Conservation Measures
93.04 Exceptions

93.01 AUTHORITY TO RESTRICT WATER USAGE. The Mayor is hereby authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain non-essential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth in Section 93.03 hereof, the Mayor shall give due consideration to water levels, available/usable storage on hand, draw down rates, and the projected supply capability at the well head; supply capacity, rate of usage, and projected supplies of wells in the water system and elevation of the East Nishnabotna River; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakage, stoppages and leaks; supplementary source data; and safety and such other data appurtenant to the past, current and projected water demands. Said declaration shall provide for the limitations of water usage by all citizens and residents of the City. Said limitations include but are not limited to:

1. Inclusive dates of the emergency.
2. Specific limitations on water usage and times for said usage.
3. Penalties for violations thereof.
4. Any violation of said declaration shall constitute a municipal infraction pursuant to Chapter 364.22 of the *Code of Iowa*, and fines in accordance therewith shall be imposed.

93.02 EXCEPTIONS TO REGULATIONS. The provisions of this chapter, or regulations promulgated hereunder, which are hereby authorized, shall not apply to any governmental activity, institution, business, or industry, upon a proper show, to be necessary to the public health, safety, and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any activity, institution, business, or industry aggrieved may appeal to the Council.

93.03 WATER CONSERVATION MEASURES. Upon a determination by the Mayor or the existence of the following conditions, the Mayor shall take the following actions:

1. Step 1 – Water Alert: When moderate but limited supplies of water are available, the Mayor shall, through appropriate means, call upon the general population to employ prudent restraint in water usage, and to conserve water voluntarily by whatever methods available.
2. Step 2 –Water Emergency: When very limited supplies of water are available, the Mayor shall order curtailment of less essential usages of water, including (but not limited to) one or more of the following:
 - A. Watering Yards. The sprinkling, watering, or irrigating of shrubbery, trees, lawns, grass, ground cover, plants, vines, gardens, vegetables, flowers, or any other vegetation.

- B. Washing Mobile Equipment. The washing of automobiles, trucks, trailers, trailer-houses, railroad cars, or any other type of mobile equipment.
- C. Cleaning Outdoor Services. The washing of sidewalks, driveways, filling station aprons, porches, and other outdoor services.
- D. Cleaning Buildings. The washing of the outside of the dwellings; the washing of the inside and outside of office buildings.
- E. Cleaning Equipment and Machinery. The washing and cleaning of any business or industrial equipment and machinery.
- F. Ornamental Fountains. The operation of any ornamental fountain or other structure making a similar use of water.
- G. Swimming Pools. The swimming and wading pools not employing a filter and recirculating system.
- H. Fire Hydrants. The use of water from fire hydrants for any purpose other than fire suppression or other public emergency.
- I. Escape through Defective Plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.
- J. Restaurants. The serving of drinking water in restaurants, cafeterias, or other food establishments unless requested by the individual.

93.04 EXCEPTIONS. The Council shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards. Further, this chapter shall not apply to those businesses and industries declared by resolution of the Council to be necessary for the public health, safety and welfare.

CHAPTER 94 RESERVED

CHAPTER 95 SANITARY SEWER SYSTEM

95.01 Purpose
 95.02 Definitions
 95.03 Public Works Director
 95.04 Prohibited Acts
 95.05 Sewer Connection Required

95.06 Service Outside the City
 95.07 Right of Entry
 95.08 Use of Easements
 95.09 Special Penalties
 95.10 Industrial Pretreatment Requirements

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety, and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
23. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 PUBLIC WORKS DIRECTOR. The Public Works Director shall exercise the following powers and duties:

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

1. **Operation and Maintenance.** Operate and maintain the City sewage system.
2. **Inspection and Tests.** Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. **Records.** Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that 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 that 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 Public Works Director.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet (61 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of these Sanitary Sewer chapters. The Public Works Director or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

95.10 INDUSTRIAL PRETREATMENT REQUIREMENTS. All discharges of wastewater, gases, or solids which are not similar to domestic wastewater shall meet the following pretreatment requirements:

1. City of Audubon non-domestic waste pretreatment requirements and limits as adopted and amended from time to time by City Council resolution.
2. This section adopts by reference the following sections of the General Pretreatment Regulations for Existing and New Sources of Pollution promulgated by the United States Environmental Protection Agency, 40 Code of Federal Regulations, Chapter I, Part 403, as published through July 1, 1989, as amended on October 17, 1989, and July 24, 1990, as the City's pretreatment regulations. These sections included 403.2, 403.3, 403.4, 403.5, 403.6, 403.7, 403.8, 403.12, 403.15, 403.16 and 403.17.
3. This section adopts by reference the categorical pretreatment standards set out in 40 CFR 405-471.

4. This section adopts by reference the testing procedures for wastewater analysis set out in 40 CFR 136.
5. This section adopts by reference sections 307(b) and (c) and 402(b)(8) of the Federal Water Pollution Control Act as amended through July 1, 1990
6. Any industrial, commercial or other utility customer which discharges any wastewater, industrial waste or other waste, other than domestic wastewater, to the municipal sanitary sewer system shall comply with all regulations or requirements of the Iowa Department of Natural Resources and/or the U.S. Environmental Protection Agency. Where regulations have not been set by those agencies, the Public Works Director shall establish pretreatment requirements to obtain the following objectives:
 - A. To prevent the introduction of pollutants which will interfere with the treatment plant operation or contaminate the resulting biosolids; and
 - B. To prevent the introduction of pollutants which will pass through the system, inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system; and
 - C. To improve the opportunity to recycle and reclaim wastewaters and biosolids from the system.
7. Any costs for pretreatment flow measuring, or monitoring facilities or analytical systems or tests to meet the pretreatment regulations shall be the responsibility of the customer.
8. Any costs to the City, including increased operation or maintenance expenditures or fines levied by the State or federal agencies, which result from the discharge from any utility customer shall be assessed to that customer. In the event more than one utility customer is responsible, the cost shall be prorated among those responsible.
9. No utility customer may expand said customer's process or operation if that expansion results in a discharge that exceeds any limitation established for such discharge or results in the discharge of some other substance which will violate any provision of the pretreatment regulations unless the customer's plans for expansion are approved by the Public Works Director at least six (6) months prior to the planned expansion.
10. All users who are significant or minor non-domestic waste contributors subject to federal and/or State pretreatment regulations and requirements shall enter into a pretreatment agreement with the City before discharging non-domestic wastewaters. Any contributor discharging pursuant to a contract with the City shall be issued a pretreatment agreement within six (6) months of approval of any Audubon Non-Domestic Waste Pretreatment Program.
11. Industrial Pretreatment Enforcement Actions and Procedures. Failure to meet the standards and requirements of this section shall be a municipal infraction enforced and subject to penalty according to the following schedule:

ANTICIPATED ENFORCEMENT ACTIONS/PROCEDURES					
Unpermitted Discharge					
Type of Violation	Industrial Pretreatment Program Action	Timeframe	Responsible Official	Expected Action from User	Escalated Action if Needed
Unpermitted Discharge (Unaware of Requirement)	Notice of Non-Compliance	Within 30 Days of Discovery of Discharge	City Clerk	File Treatment Agreement Application	Notice of Violation; Suspend Service Until Treatment Agreement is Issued
Unpermitted Discharge (Aware of Requirement)	Notice of Violation with Penalty Assessed	Within 30 Days of Discovery of Discharge	City Clerk	File Treatment Agreement Application	Suspend Service Until Treatment Agreement is Issued
Unpermitted Discharge (Resulting in Violation at WPCF)	Order to Cease Process Causing Violation; Notice of Violation with penalty per day per violation per established tiered penalty structure	Order to Cease Immediately; Notice of Violation within 15 Days	City Clerk	File Treatment Agreement Application; Report Steps Taken to Prevent Violation	Suspend Service Until Treatment Agreement is Issued
Unpermitted Discharge (Resulting in Endangerment)	Suspend Service; Notice of Violation with penalty per day per violation per established tiered penalty structure	Suspend Service Immediately; Notice of Violation within 15 days	City Clerk	File Treatment Agreement Application; Report Steps Taken to Prevent Future Endangerment	Not Applicable

Treatment Agreement Limit Violations					
Type of Violation	Industrial Pretreatment Program Action	Timeframe	Responsible Official	Expected Action from User	Escalated Action if Needed
Treatment Agreement Limits Violation Single Event (Minor)	Notice of Non-Compliance or Notice of Violation	Within 30 days of receiving data	City Clerk	Conduct Additional Monitoring and Return to Compliance	Notice of Violation with Penalty
Treatment Agreement Limits Violation	Notice of Violation with penalty per day per violation per established tiered penalty structure	Within 30 days of Receiving Data	City Clerk	Conduct Additional Monitoring and Return to Compliance	Second Notice of Violation with Increased Penalty
Treatment Agreement Limits Violation Significant Non-Compliance	Notice of Violation with penalty per day per violation per established tiered penalty structure	Within 30 days of Receiving Data	City Clerk	Report cause of Non-Compliance and Steps Taken to Prevent Violation	Enforceable Schedule; Suspend Service if Inadequate Action is Taken
Treatment Agreement Limits Violation (Resulting in Violation at WPCF)	Order to Cease Process Causing Violation Notice of Violation with penalty per day per violation per established tiered penalty structure	Order to Cease Immediately Notice of Violation Within 15 days of Discovering Violation	City Clerk	Report cause of Non-Compliance and Steps Taken to Prevent Violation	Suspend Service Until Resolved; Enforceable Schedule

Other Violations					
Type of Violation	Industrial Pretreatment Program Action	Timeframe	Responsible Official	Expected Action from User	Escalated Action if Needed
Treatment Agreement Limits Violation results in Endangerment	Suspend Service Notice of Violation penalty per day per violation per established tiered penalty structure	Suspend Service Immediately Notice of Violation within 15 days of Discovering Violation	City Clerk	File for Reissuance of Treatment Agreement	Not Applicable
Self-Monitoring Violations	Notice of Non-Compliance or Notice of Violation	Within 30 Days of Discovery	City Clerk	Conduct Missed Sampling	Second Notice of Violation with minimum Penalty equal to Cost of Missed Testing
Reporting Violations Late Report	Notice of Non-Compliance	Within 30 days of the Report Due Date	City Clerk	Submit Report	Notice of Violation Penalty Assessed Possible SNC if over 30 days
Reporting Violations Incomplete or Inaccurate Reports	Notice of Non-Compliance	Within 30 days of Report Submission	City Clerk	Submit Revised Report	Notice of Violation Penalty Assessed
Reporting Violations Intentional Falsification	Referred to District Attorney	As soon as suspected	City Clerk	Not Applicable	Not Applicable
Violation of Treatment Agreement Conditions	Notice of Violation with penalty per day per violation per established tiered penalty structure	Within 30 Days of Discovery	City Clerk	Varies	Second Notice of Violation with Increased Penalty
Violation of Treatment Agreement Conditions (Resulting in Violation at WPCF or Endangerment of WPCF Personnel)	Suspend Service Notice of Violation with penalty per day per violation per established tiered penalty structure	Suspend Service Immediately Notice of Violation Within 15 days	City Clerk	Steps taken to Avoid Reoccurrence	Not Applicable

Tiered Penalty Structure				
Level	Occurrence (Minor)	Penalty	Responsible Official	Expected Action from User
1	1 st occurrence within rolling 90-day period	\$25 per violation per day and Recovery of Costs (see below)	City Clerk	Return to compliance / Pay Penalty
2	2 nd occurrence within rolling 90-day period	\$50 per violation per day and Recovery of Costs (see below)	City Clerk	Return to compliance / Pay Penalty
3	3 rd occurrence within rolling 90-day period	\$100 per violation per day and Recovery of Costs (see below)	City Clerk	Return to compliance / Pay Penalty
4	4 th occurrence within rolling 90-day period	\$150 per violation per day and Recovery of Costs (see below)	City Clerk	Return to compliance / Pay Penalty
5	5 th occurrence within rolling 90-day period	\$200 per violation per day and Recovery of Costs (see below)	City Clerk	Return to compliance / Pay Penalty
6	6 th occurrence within rolling 90-day period	Suspension of service and Recovery of Costs (see below)	City Clerk	Corrective Action Plan – Service Suspended until return to Compliance
<p style="text-align: center;">RECOVERY OF COSTS</p> <p>In addition to basic charges for normal sewer service, the Permittee shall be responsible for the following additional costs:</p> <p>(a) Costs for the City to provide or maintain flow meters or composite samplers of behalf of the Permittee.</p> <p>(b) Costs of any loss, damage, or expense incurred by the City because of Permittee's discharge not in compliance with Treatment Agreement Limits, or classified as a prohibited discharge by 40 CFR Part 403.</p> <p>(c) Costs of any cleaning or repair work required because of Permittee's discharge not in compliance with Treatment Agreement Limits, or classified as a prohibited discharge by 40 CFR Part 403.</p> <p>(d) Assessment of penalties or fines for violations of this Treatment Agreement or City Ordinance.</p> <p>(e) Costs incurred to publish permittee's name in a newspaper as required in 40 CFR 403.8(f)(2)(viii) if the Permittee was in significant noncompliance at any time during the previous 12 months.</p> <p>(f) Costs for treatment and monitoring of waste by City due to discharge from Permittee that exceeds limitations of this Permit.</p>				

CHAPTER 96 BUILDING SEWERS AND CONNECTIONS

96.01 Application for Service
 96.02 Plumber Required
 96.03 Excavations
 96.04 Connection Requirements
 96.05 Interceptors Required

96.06 Sewer Tap
 96.07 Inspection Required
 96.08 Property Owner's Responsibility
 96.09 Abatement of Violations

96.01 APPLICATION FOR SERVICE. No person shall make any connection to the public sewer system without first making an application for service to the City. The application for service 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 property owner shall complete construction and connection of the building sewer to the public sewer within sixty (60) days after the application for service, 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.

96.02 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.03 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.04 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Public Works Director and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Public Works Director, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.
4. **Water Lines.** When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth (1/4) inch per foot.
 - B. Minimum grade of one-eighth (1/8) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Public Works Director and shall be made only with approved fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
 - C. Ductile iron water pipe – A.W.W.A. C-151.
 - D. P.V.C. – SDR26 – A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall that might thereby be weakened.
11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Public Works Director. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building

14. cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Public Works Director. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.05 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Public Works Director, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Public Works Director, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.06 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Public Works Director. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Public Works Director and in accordance with the Public Works Director's direction if such connection is approved.

96.07 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Public Works Director. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Public Works Director shall be notified and the Public Works Director shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Public Works Director refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.08 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be

borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.09 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97 USE OF PUBLIC SEWERS

97.01 Storm Water
 97.02 Surface Waters Exception
 97.03 Prohibited Discharges
 97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Public Works Director
 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 that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Public Works Director where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Public Works Director.

B. Where necessary in the opinion of the Public Works Director, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director 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 Public Works Director 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 Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F (65° C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32° F and 150° F (0° to 65° C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director 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 that may be established by the Public Works Director as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that 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 that, 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 that 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 that 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 OF PUBLIC WORKS DIRECTOR. 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director, 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 Public Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98 ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
 98.02 When Required
 98.03 Compliance with Regulations
 98.04 Permit Required

98.05 Discharge Restrictions
 98.06 Maintenance of System
 98.07 Systems Abandoned
 98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99 SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Special Rates

99.03 Private Water Systems

99.04 Payment of Bills

99.05 Lien for Nonpayment

99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. First 5,000 gallons or lesser amount per quarter at \$57.52 (minimum bill).
2. All over 5,000 gallons per quarter at \$14.92 per 1,000 gallons.

99.02 SPECIAL RATES. Where, in the judgment of the Public Works Director and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Public Works Director and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.06 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.

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CHAPTER 100 RESERVED

CHAPTER 101 RESERVED

CHAPTER 102 RESERVED

CHAPTER 103 RESERVED

CHAPTER 104 RESERVED

CHAPTER 105 SOLID WASTE CONTROL

105.01 Purpose 105.02 Definitions 105.03 Sanitary Disposal Required 105.04 Health and Fire Hazard 105.05 Open Burning Restricted 105.06 Separation of Yard Waste Required	105.07 Littering Prohibited 105.08 Open Dumping Prohibited 105.09 Toxic and Hazardous Waste 105.10 Waste Storage Containers 105.11 Prohibited Practices 105.12 Recycling Program
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105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(*Code of Iowa, Sec. 455B.361[2]*)
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(*IAC, 567-100.2*)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(*IAC, 567-20.2[455B]*)
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris.
(*Code of Iowa, Sec. 455B.361[1]*)
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(*IAC, 567-100.2*)
9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including eight (8) separate dwelling units.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. 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. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or

arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3i])

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State

Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material in accordance with the provisions of the contract between the City and the collector. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the collector.

CHAPTER 106 COLLECTION OF SOLID WASTE

106.01 Collection Service
 106.02 Collection Vehicles
 106.03 Loading
 106.04 Frequency of Collection
 106.05 Bulky Rubbish

106.06 Right of Entry
 106.07 Contract Requirements
 106.08 Collection Fees
 106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE.

1. Contract Service. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises.
2. Hours for Collection. The collection and transportation of solid waste and recyclables under the provisions of this chapter shall be permitted to take place only during the following time periods: 7:00 a.m. to 6:00 p.m., Monday through Friday, and 7:00 a.m. to 12:00 noon on Saturdays and is prohibited at all other times.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the collector.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises

owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:
 - A. For each residential premises and for each dwelling unit of a multiple-family dwelling – \$21.00 per month.
 - B. For commercial, industrial and institutional premises – A landfill fee of \$5.00 per month.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

CHAPTER 107 RESERVED

CHAPTER 108 RESERVED

CHAPTER 109 RESERVED

CHAPTER 110 NATURAL GAS FRANCHISE

110.01 Franchise Granted 110.02 State Code Restrictions 110.03 Excavations 110.04 Relocation of Property 110.05 Vacating Streets 110.06 Relocation of Facilities 110.07 Relocation for Private Development	110.08 Indemnity 110.09 Mapping Information 110.10 Extension of System 110.11 Standards of Operation 110.12 Police Regulations 110.13 Franchise Fee 110.14 Failure to Abide
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110.01 FRANCHISE GRANTED. There is hereby granted to Mid-American Energy, an Iowa corporation, hereinafter called the “Company,” and to its successors and assigns the right and franchise to acquire, construct, erect, maintain, and operate in the City a gas distribution system, to furnish natural gas along, under, and upon the streets, avenues, alleys, and public places to serve customers within and without the City, and to furnish and sell natural gas to the City and its inhabitants. For the term of the 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. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.[†]

110.02 STATE CODE RESTRICTIONS. The rights and privileges granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

110.03 EXCAVATIONS. The 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 unreasonably interfere with the construction of any water pipes, drain, or sewer or the flow of water therefrom when the same have been or may hereafter be located by authority of the City. In making excavations in any public streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. The Company agrees any replacement of road surface shall conform to current City Code regarding its depth and composition. 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 immediately preceding condition or to a condition required for the City to comply with City, State or federal rules, regulations or law.

110.04 RELOCATION OF PROPERTY. Excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), the Company shall, in accordance with Iowa law, including Company’s tariff on file with and made effective by the Iowa Utilities Board, as may be subsequently amended (“Tariff”), at its cost and expense, locate and relocate its existing facilities or equipment located in, on, over, or under the right-of-way of any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley. 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 select said alternative route or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects

[†] **EDITOR’S NOTE:** Ordinance No. 697 adopting a natural gas franchise for the City, was passed and adopted on July 25, 2011.

that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City, at its own cost, shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City may attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 VACATING STREETS. Vacating a street, avenue, alley, public ground, or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City's abandoning or vacating any street, avenue, alley, or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than sixty (60) days' advance notice of the City's proposed action and, upon request, grant the Company a utility easement covering existing and future facilities and activities. 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 ground, the City shall, at its cost and expense, obtain easements for existing Company facilities.

110.06 RELOCATION OF FACILITIES. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way which have been relocated at Company expense at the direction of the City in the previous ten (10) years.

110.07 RELOCATION FOR PRIVATE DEVELOPMENT. Pursuant to relocation of Company facilities as may be required by Sections 110.03, 110.04, 110.05 or 110.06, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse—or require the developer or non-public entity to reimburse—the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.08 INDEMNITY. The 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 the franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.09 MAPPING INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control which is located in the public right-of-way, including documents, maps, and other information in paper or electronic or other forms

(“Information”). The Company and City recognize the Information, in whole or part, may be considered a confidential record under State or federal law or both. Therefore, the City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by State or federal law on other grounds and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

110.10 EXTENSION OF SYSTEM. The Company shall extend its mains and pipes, and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.11 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish natural gas in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company’s tariff made effective by the Iowa Utilities Board or its successors, and Iowa law.

110.12 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

110.13 FRANCHISE FEE. A franchise fee is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service pursuant to the Tariff and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, derived from the sale of natural gas and distribution service pursuant to the Tariff. City imposes the franchise fee upon the following revenue classes:

Residential Customers	5 percent
Commercial Customers	5 percent
Industrial Customers	5 percent
Public Authority Customers	5 percent
Transportation Customers	5 percent

The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee or modify, decrease or eliminate the franchise fee. The City reserves the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to customer classes in compliance with Iowa law and this section.

1. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. 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, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

2. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

3. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed-upon date that is not less than sixty (60) days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the Council.

4. 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 subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

5. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

January, February and March

April, May and June

July, August and September, and

October, November and December

The Company shall provide City with notice 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.

6. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the

Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

7. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

8. The obligation to collect and remit the fee imposed by this chapter is modified or repealed if:

A. Any other person is authorized to sell natural gas at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate.

B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas at retail 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 natural gas within the City.

C. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final non-appealable 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 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this chapter 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.

9. The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee, effective as of the date specified below, with no liability therefor under each of any of the following circumstances as determined to exist in the sole discretion of Company:

A. Any 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.

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.

C. The Iowa Utilities Board or its 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.

10. Upon implementation of a franchise 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.

110.14 FAILURE TO ABIDE. Either City or Company (“party”) may terminate the franchise if the other party is materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate the franchise. A party shall not be considered to be in breach of the franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached the franchise if the alleged breach is the result of the actions of a third party or the other party.

CHAPTER 111 ELECTRIC FRANCHISE

111.01 Franchise Granted
 111.02 State Code Restrictions
 111.03 Use of Public Ways
 111.04 Trimming of Trees
 111.05 Relocation of Property
 111.06 Excavations
 111.07 Vacating Streets
 111.08 Relocation of Facilities

111.09 Relocation for Private Development
 111.10 Indemnification
 111.11 Mapping Information
 111.12 Maintenance of Facilities
 111.13 Standards of Operation
 111.14 Franchise Fee
 111.15 Failure to Abide

111.01 FRANCHISE GRANTED. There is hereby granted to Mid-American Energy Company, an Iowa corporation, hereinafter called the “Company,” and its successors and assigns, the right and nonexclusive franchise to acquire, construct, erect, maintain and operate in the City, a system for the transmission and distribution of electric energy and communication signals along, under, over, and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.[†]

111.02 STATE CODE RESTRICTIONS. The rights and privileges granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

111.03 USE OF PUBLIC WAYS. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures, and accessories as well as to excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all of said conduits and poles shall be so placed as not to unreasonably interfere with any above- or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

111.04 TRIMMING OF TREES. The Company is authorized and empowered to prune or remove at Company expense any trees or vegetation extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service and to prevent interference with the wires and facilities of the Company. Any such pruning and removal shall be done in accordance with current nationally accepted safety and utility industry standards and federal and State laws, rules, and regulations.

111.05 RELOCATION OF PROPERTY. Excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), the Company shall, in accordance with Iowa law, including Company’s tariff on file with and made effective by the Iowa Utilities Board, as may be subsequently amended (“Tariff”), at its cost and expense, 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 reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public ground or public place or the improvement of, in, or about any such street or alley. The City and Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the Company of relocation of Company

[†] **EDITOR’S NOTE:** Ordinance No. 696, adopting an electric franchise for the City, was passed and adopted on July 25, 2011.

installations. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City, at its own cost, shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City may attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.06 EXCAVATIONS. In making excavations in any streets, avenues, alleys, and public places for the installation, maintenance, or repair of conductor, conduits, or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the condition as existed prior to the Company excavation. 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 immediately preceding condition or to a condition required for the City to comply with City, State or federal rules, regulations, or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

111.07 VACATING STREETS. Vacating a street, avenue, alley, public ground, or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City's abandoning or vacating any street, avenue, alley, or public ground where the Company has electric facilities in the vicinity, the City shall provide Company with not less than sixty (60) days' advance notice of the City's proposed action and, upon request, grant the Company a utility easement covering existing and future facilities and activities. 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 ground, the City shall, at its cost and expense, obtain easements for existing Company facilities.

111.08 RELOCATION OF FACILITIES. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way which have been relocated at Company expense at the direction of the City in the previous ten (10) years.

111.09 RELOCATION FOR PRIVATE DEVELOPMENT. Pursuant to relocation of Company facilities as may be required by Sections 111.03, 111.05, 111.06, 111.07 and 111.08, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse—or require the developer or non-public entity to reimburse—the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

111.10 INDEMNIFICATION. The 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, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation, or maintenance of the electric facilities authorized by the franchise; provided, however, the Company shall not be obligated to defend, indemnify, and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees, or agents.

111.11 MAPPING INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control which is located in the City right-of-way. The Company and City recognize the information provided will, under current Iowa law, constitute public records, but that nonetheless, some information provided will be confidential under State or federal law or both. Therefore, the City shall not release any information with respect to the location or type of equipment which the Company owns or controls in the right-of-way which may constitute a trade secret or which may otherwise be protected from public disclosure by State or federal law. Furthermore, the City agrees that no documents, maps or information provided to the City by the Company shall be made available to the public or other entities if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time.

111.12 MAINTENANCE OF FACILITIES. The Company shall construct, operate, and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

111.13 STANDARDS OF OPERATION. During the term of the franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's Tariff and made effective by the Iowa Utilities Board or its successors, and Iowa law.

111.14 FRANCHISE FEE. There is hereby imposed upon, and shall be collected from, the retail electric customers of the MidAmerican Energy Company receiving service pursuant to the Tariff located within the corporate limits of the City and remitted by the company to the City, a franchise fee from each customer class as set forth below of the gross receipts, minus uncollectible amounts, derived by the Company from the delivery and sale of electric energy to customers within the corporate limits of the City:

Residential Customers	5 percent
Commercial Customers	5 percent
Industrial Customers	5 percent
Public Authority Customers	5 percent

The City may, as allowed by Iowa law, exempt customer classes of sales from imposition of the franchise fee or modify, decrease or eliminate the franchise fee. The City reserved the right to cancel any or all the franchise fee exemptions and also reserves the right to grant exemptions to customer classes in compliance with Iowa law and this Section.

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed-upon date that is not less than sixty (60) days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the Council.
2. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. 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, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.
4. 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 subject to a different level of franchise fees or being exempt from the imposition of franchise fees.
5. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.
 - A. January, February and March
 - B. April, May and June
 - C. July, August and September, and
 - D. October, November and December

E. The Company shall provide City with notice 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.

6. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

7. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

8. The obligation to collect and remit the fee imposed by this chapter is modified or repealed if:

A. Any other person is authorized to sell electricity at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate.

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 at retail 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.

C. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final non-appealable 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 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this chapter 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.

9. The other provisions of this chapter to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee, effective as of the date specified below, with no liability therefor under each of any of the following circumstances as determined to exist in the sole discretion of Company:

A. Any 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.

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.

C. The Iowa Utilities Board or its 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.

D. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

111.15 FAILURE TO ABIDE. Either City or Company (“party”) may terminate the franchise if the other party is materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate the franchise. A party shall not be considered to be in breach of the franchise if it has operated in compliance with State or federal law. A party shall not be considered to have breached the franchise if the alleged breach is the result of the actions of a third party or the other party.

CHAPTER 112 RESERVED

CHAPTER 113 RESERVED

CHAPTER 114 RESERVED

CHAPTER 115 CEMETERY

115.01 Establishment 115.02 Trusteeship 115.03 General Operation 115.04 Burials 115.05 Markers, Monuments and Decorations 115.06 Sale of Lots; Perpetual Care	115.07 Long-Term Care of Lots 115.08 Records 115.09 Liability 115.10 Platting 115.11 Penalties
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115.01 ESTABLISHMENT. The Arlington Heights Cemetery and the Maple Grove Cemetery are both established as perpetual care, municipal cemeteries pursuant to Chapter 523I of the *Code of Iowa*.

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

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

115.03 GENERAL OPERATION. The following rules govern general operations of the cemetery:

1. Persons within the cemetery shall at all times maintain a decorum of speech and action, including avoidance of loud talking or other noise within earshot of graveside ceremonies if not part of the group participating in the ceremonies, and workers shall suspend their work when near such ceremonies.
2. No person shall drive any vehicle faster than 15 miles per hour or in a careless manner upon the cemetery roads.
3. Persons shall walk only on roads and walkways or footpaths except when absolutely necessary for maintenance of gravesites, inspection of plots, installation of markers or decoration of graves.
4. No person shall deface or otherwise damage any marker, headstone, monument, cemetery fence, or other cemetery structure.
5. Public vehicular traffic within the cemetery shall be limited to the hours of between sunrise and sunset and confined to designated roadways.
6. No person, except an authorized City employee, shall cut, remove, or carry away any flowers, trees, shrubs, plants, or vines from any lot. However, the owner of a lot may remove and carry away any flowers, plants, or vines that the owner has placed upon said lot. No person, other than the owner of the lot or City employees in the performance of their duties, shall remove, carry away, or destroy any vases, flower pots, urns, or other objects which have been placed upon any lot.
7. No person may consume or possess beer or liquor of any kind on the cemetery grounds.
8. No person shall allow any dog or other animal belonging to said person or under his or her control to run at large in the City cemetery, or any part thereof.
9. No person, other than law enforcement officers and persons engaged in military funerals or like ceremonies whose functions require the carrying of firearms, may carry any firearm in or upon the City cemetery grounds.

10. All persons using the cemetery grounds shall deposit their rubbish and trash in the receptacles placed in the cemetery for that purpose.
11. The operation of recreational motor vehicles upon cemetery lots and lands is not permitted.

115.04 BURIALS. The following rules apply to burials within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith with regard to burials.

1. Lot owners are forbidden to resell their lots or burial spaces upon their lots for remuneration in excess of current pricing.
2. No filling, sodding, seeding, boxing, mounding or other work upon single graves or lot graves shall be done except by persons contracted or employed by the City.
3. No interment of a body other than that of a human being shall be permitted or made in the City cemetery, nor shall there be more than one body per grave, except in the case of cremains. Any further exceptions to this section must be made by the Council. Interment of parent and infant child will be permitted in one grave.
4. There shall be no burials without a casket or vault. Vaults shall be of cement, steel, or fiberglass. A vault will not be required for an aluminum casket.
5. Arrangements for interments shall be made by the owner of the burial space, by a member or members of the family acting and authorized by law to act for the owner, or by an authorized undertaker, or other authorized agent of the owner.
6. Notice of interment must be given to the Clerk at least 48 hours in advance of burial—72 hours' notice in the event the ground is frozen. The grave opener must be present at all interments and have full charge of opening, closing and sodding/seeding of all graves.
7. The City shall in no manner be liable for any delay in the interment of a body where a protest to the interment has been made or where the rules and regulations of the cemetery have not been complied with. The City shall be under no duty to recognize any protest of interment unless it be in writing and filed with the Clerk. The City shall not be responsible for errors resulting from orders or instructions given by telephone and the Clerk or grave opener may require such orders to be in writing before finalizing any action.
8. Disinterments shall be governed by the above subsections 2, 3, 4, 5, 6, 7.
9. The grave opener shall exercise reasonable care in making a removal, and the City shall not assume any liability for damages to any casket or burial case or urn incurred in making the removal.
10. All grave openings and closing shall be performed by companies or persons who have written agreements with the City for such services which have been approved in advance by the City Council.

11. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

115.05 MARKERS, MONUMENTS, AND DECORATIONS.

1. Definitions. For use in this section the following terms are defined:
 - A. “Footstone” refers to a grave marker placed at the foot of the specific burial, usually bearing specific name and dates.
 - B. “Headstone” refers to a grave marker placed at the head of the specific burial, and also usually bearing specific name and dates.
 - C. “Marker” refers to a stone located at and identifying a specific grave, usually bearing the name, date of birth, and date of death.
 - D. “Monument” refers to the large family lot stones which do not identify any specific grave.
2. Rules. The following rules apply to the erection of monuments and markers within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith in regard to markers.
 - A. Monuments and grave markers of every description shall have suitable foundations adequate to prevent tipping or sinking.
 - B. No monument or headstone and no structure of any vault above ground shall be constructed of any material other than cut stone or real bronze, except military stone as recommended by the Veterans Administration shall take the place of headstone.
 - C. No headstone or grave marker will be allowed less than 4 inches or more than 14 inches in thickness.
 - D. Only one monument will be permitted on a family burial lot, and no monument will be allowed on a single grave section.
 - E. All monuments and markers installed shall be bordered by a 6-inch wide concrete rim flush with the surface and consistent with the contour of the land and extending no less than 1 foot into the ground. In addition to 6-inch wide concrete mowing rim, each monument, marker, or headstone which is over 12 inches in height shall have a concrete base extending 36 inches into the ground immediately below and which concrete base must have the same outside dimensions as the monument, marker, or headstone. A monument, marker, or headstone under 12 inches in height, above ground level, shall have a 6-inch concrete mowing rim and foundation, both of which shall extend not less than 1 foot into the ground immediately below.
 - F. Only one monument, marker, or headstone for each grave will be allowed except where noted above.

G. Any trees, plants, or flowers growing on the lot shall not be removed or trimmed without the permission of the City.

H. Every installer of a monument, marker, or headstone shall contact the Clerk's office prior to commencement of installation and before depositing materials on the cemetery lot where the monument, marker or headstone is to be installed. Installers shall furnish the City with their name, business address, telephone number, and place of installation, together with the name, address, and telephone number of the party purchasing or arranging for the installation of the monument, marker, or headstone.

I. If any vault, tomb, mausoleum, or like structure in which bodies are entombed in the cemetery falls into a state of dilapidation or decay, or is determined by the Council to be offensive or in any way injurious to the appearance of the cemetery, no adequate provisions having been made by the owner for repair and preservation of such structure, the City shall have the right to remove the said offensive or objectionable structure and to inter a body or bodies contained therein, in the earth upon the lot in which such structure was located, maintaining such lot thereafter in good and similar condition as done with other lots in the cemetery.

J. No fences or enclosures around lots shall be permitted.

K. Potted plants will be allowed within a one-foot radius of any monument. The City reserves the right to remove all potted plants, flowers, ornaments, or other objects 30 days after Memorial Day. Owners of lots shall not change the grade of any lot or interfere in any way with the general plan of landscaping of the cemetery.

L. Authorized employees of the City may enter upon any lot and remove any potted plant, flowers, shrubs, ornaments, or other objects which are deemed detrimental to the cemetery or adjoining lots for the purpose of maintaining cemetery grounds or making any improvements deemed to be advantageous to the cemetery grounds.

M. Lot owners and others are prohibited from placing on lots or graves any toys, cases, boxes, globes, shells, cans, jugs, bottles, bric-a-brac of every description, wooden benches, chairs, settees, headboards or wooden articles of any kind. Any such articles found on the cemetery grounds may be removed.

N. Floral frames shall not be kept over one week from day of interment.

O. Receptacles for cut flowers should be sunk below the lawn level.

P. No trees or shrubs shall be planted by any person on any portion of the cemeteries, unless approved in advance of the Cemetery Sexton.

Q. In order to facilitate mowing and lot care, no permanent planting of any kind by lot owners is permitted.

115.06 SALE OF LOTS; PERPETUAL CARE.

1. Purchasers of burial space in the City cemetery, whether by lots or parts thereof, shall be entitled, upon payment of the full purchase price, to a "Certificate of Interment Rights" for the space purchased, said certificate to be signed by the Mayor and countersigned by the Clerk, and specifying that said certificate vests in the purchaser, the heirs, or the assigns of said purchasers, a right in fee simple to such lots, lot or part thereof for the sole purpose of sepulcher alone, for human bodies only, subject to the rules and regulations and ordinances governing the cemetery as they exist at the time of interment, and that the City reserves the control of said lots, lot, or part of lot in the cemetery in order to properly maintain the cemetery. No certificate shall be delivered until the purchaser has made final payment of the full fee for purchase plus the payment required for perpetual care. Once the full fee (lot fee and perpetual care fee) is paid the owner or his or her heirs and assigns shall be relieved of any annual liability for a care fee.

2. Any unoccupied lot will be presumed abandoned when under the conditions set out in State law for reversions, and the City may sell such reverted lot, the proceeds from which shall be deposited in the perpetual care fund to provide for the care of any occupied area of the reverted property or if there be no occupied portion, the proceeds from the sale portion may be invested, and the interest thereon be used wherever deemed useful for the care of the cemetery.

3. The Council shall, from time to time as conditions require, set by resolution prices for the conveyance of a certificate of interment rights for lots, based on the size and location of each. The price shall include a portion for perpetual care charge as set by said resolution. The proceeds from the sale portion shall be deposited in the General Fund. The prices may be increased and the proportion for perpetual care changed when the Council finds that the needs of the cemetery require it.

4. The City reserves and shall have the right to correct any errors that may be made in making either interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the City or in the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves the right to remove and transfer such remains to such other property of equal value and location as far as reasonably possible.

115.07 LONG-TERM CARE OF LOTS. The purchase price shall include a portion, to be called the perpetual care charge, to be set as a percentage of the full price, and the Clerk shall deposit such amount into a Cemetery Perpetual Care Fund. The Council, by resolution, may accept gifts or donations of land, money, or investment assets to be placed to the credit of the perpetual care fund. The assets of the perpetual care fund shall be invested by the Clerk as permitted by State law for municipal cemetery investments. The City shall use the income from such investments in caring for the property of the donor, or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of a cemetery lot. Nothing herein required shall be construed as destroying any vested right as to investments heretofore made prior to

the date that City acquired title to the cemetery or said fund, but such investments may be continued until their maturity and then reinvested according to the provisions of this section.

115.08 RECORDS.

1. The City shall keep a burial card record, which shall consist of an individual page or card for each lot, arranged by blocks according to lot number. Each page or card shall contain a record of the name and complete address, as nearly as possible, of each lot owner, the lot and block number, the purchase receipt number, date of purchase, and space for recording transfers. A diagram of the lot shall be drawn on the page, numbering and showing the location of each grave. A space is to be provided to record the name and grave number of each person buried in the lot.
2. A record book shall be maintained by the City in which all Certificates of Interment Rights shall be recorded and which show all lots purchased.
3. The City shall keep an alphabet card, arranged alphabetically by last name of deceased, for each body buried. Each card shall contain the deceased's full name, date of birth, date of death, and/or burial, age, grave number, name of funeral home, and lot and block number. This will supplement the Certificate book and burial card records and provide for a starting point when only the name of the deceased is known.

115.09 LIABILITY. The City shall take reasonable precautions to protect plot owners and the property rights of plot owners within the cemetery from loss or damage, but it expressly shall not be liable for loss or damage beyond its control, and particularly from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable disorder, whether the damage be direct or consequential.

115.10 PLATTING. It is hereby made the duty of the City to provide for the surveying, platting, grading, fencing, ornamentation, and improvement of all the cemetery grounds and the avenues leading thereto, from time to time, as in the opinion of the Council may be necessary and advisable.

115.11 PENALTIES. Violation of provisions of this chapter or failure to comply with any of its requirements shall constitute a simple misdemeanor. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 116 RESERVED

CHAPTER 117 RESERVED

CHAPTER 118 RESERVED

CHAPTER 119 RESERVED

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 that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer

for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class “C” beer permit only.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

CHAPTER 121 CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
 121.02 Permit Required
 121.03 Application
 121.04 Fees
 121.05 Issuance and Expiration

121.06 Refunds
 121.07 Persons Under Legal Age
 121.08 Self-Service Sales Prohibited
 121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any

cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

3. A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a

permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of 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 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 years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.
6. The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of*

Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond or Proof of Liability Insurance Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business or a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter, except as exempted in Section 17.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of twenty-five dollars (\$25.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. (Repealed by Ordinance No. 756 – Dec. 21 Supp.)

122.06 BOND OR PROOF OF LIABILITY INSURANCE REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that said applicant has liability insurance or that the applicant has

filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effective only between the hours of 8:00 a.m. and 8:00 p.m. and shall expire after the term of one year.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.
4. The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular

meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. (Repealed by Ordinance No. 756 – Dec. 21 Supp.)

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Audubon School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. County Members. Persons or businesses who a member of the County of Audubon participating in community festivals.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

CHAPTER 123 HOUSE MOVERS

123.01 House Mover Defined
 123.02 Permit Required
 123.03 Application
 123.04 Bond Required
 123.05 Insurance Required
 123.06 Permit Fee

123.07 Permit Issued
 123.08 Public Safety
 123.09 Time Limit
 123.10 Removal by City
 123.11 Protect Pavement
 123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and, if a corporation, the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000 per person; \$100,000 per accident.
2. Property Damage – \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of ten dollars (\$10.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain

flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 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 inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

CHAPTER 124 RESERVED

CHAPTER 125 RESERVED

CHAPTER 126 RESERVED

CHAPTER 127 RESERVED

CHAPTER 128 RESERVED

CHAPTER 129 RESERVED

CHAPTER 130 RESERVED

CHAPTER 131 RESERVED

CHAPTER 132 RESERVED

CHAPTER 133 RESERVED

CHAPTER 134 RESERVED

CHAPTER 135 STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. **Permit Required.** No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. **Public Convenience.** Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. **Barricades, Fencing and Lighting.** Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. **Bond Required.** The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. **Insurance Required.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. **Restoration of Public Property.** Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. **Inspection.** All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at

least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]
(*Code of Iowa, Sec. 364.12[2c]*)

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform 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

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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.

CHAPTER 136 SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks in areas zoned Central Business (B-1) within 12 hours and in all other areas within 36 hours of the cessation of the most recent snow, ice, or accumulation. If a property owner does not remove snow, ice, or accumulations within the period applicable to his or her area, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

- C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
 7. Grade. Curb tops shall be on level with the centerline of the street, which is 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 finish or wood float finish.
 11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or

approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137 VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
277	February 25, 1949	605	October 11, 1993
280	August 8, 1949	618	July 10, 1995
292	August 7, 1952	644	July 24, 2000
293	December 18, 1952	645	October 9, 2000
295	September 8, 1953	653	September 10, 2001
297	December 7, 1953	658	March 25, 2002
298	February 1, 1954	699	September 12, 2011
301	May 3, 1954	702	April 23, 2012
304	July 12, 1954	759	November 29, 2021
305	August 2, 1954		
308	May 17, 1955		
317	November 12, 1955		
323	June 5, 1957		
324	June 20, 1957		
328	April 7, 1958		
329	April 14, 1958		
340	September 8, 1959		
351	March 20, 1961		
376	Undated		
380	July 7, 1966		
408	September 28, 1971		
425	September 23, 1974		
435	July 8, 1975		
436	July 8, 1975		
437	July 8, 1975		
438	July 8, 1975		
439	July 8, 1975		
444	September 22, 1976		
468	May 22, 1978		
477	July 9, 1979		
483	March 26, 1979		
499	July 28, 1980		
500	July 28, 1980		
501	July 28, 1980		
502	July 28, 1980		
505	September 23, 1980		
542	November 26, 1984		
551	November 10, 1986		
578	May 14, 1990		
589	June 11, 1991		

CHAPTER 138 STREET GRADES

138.01 Established Grades

74.02 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.

[illegible]

CHAPTER 139 NAMING OF STREETS

139.01 Naming New Streets
 139.02 Changing Name of Street
 139.03 Recording Street Names

139.04 Official Street Name Map
 139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Audubon, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

CHAPTER 140 RESERVED

CHAPTER 141 RESERVED

CHAPTER 142 RESERVED

CHAPTER 143 RESERVED

CHAPTER 144 RESERVED

CHAPTER 145 DANGEROUS BUILDINGS

145.01 Enforcement Officer
 145.02 General Definition of Unsafe
 145.03 Unsafe Building
 145.04 Notice to Owner

145.05 Conduct of Hearing
 145.06 Posting of Signs
 145.07 Right to Demolish; Municipal Infraction
 145.08 Costs

145.01 ENFORCEMENT OFFICER. The Public Works Director is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (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 AUDUBON, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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

CHAPTER 146 MANUFACTURED AND MOBILE HOMES

146.01 Definitions

77.03 Foundation Requirements

146.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (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.
5. The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147 RESERVED

CHAPTER 148 RESERVED

CHAPTER 149 RESERVED

CHAPTER 150 BUILDING NUMBERING

150.01 Numbering Required

150.03 Address Numbering Plan

150.02 Numbering Requirements

150.01 NUMBERING REQUIRED. All houses, buildings or mail posts fronting on public streets in the City shall have an address number.

150.02 NUMBERING REQUIREMENTS.

1. Responsibility. The responsibility for the displaying of the address number for each house and building in the City shall rest with the property owner, trustee, lessee, agent or occupant of each house or building.
2. Obtaining Number. The assigned address number shall be obtained from the City Clerk.
3. Displaying Number. Address numbers shall be a minimum of four (4) inches in height and shall be located either near a buildings main entrance, above the garage door, or on a location that is easily visible from the street. Additional assigned numbers may be displayed at the property owner's discretion. Assigned numbers shall be displayed with Arabic numerals in a color that contrasts with the color of the subject house, building or mail post. Address displays in script are prohibited. Houses or buildings that are set back more than seventy five (75) feet from a street curb shall be required to display address numbers within ten (10) feet of the street curb, on a surface that is easily visible from the street. Any building that has alley access at the rear of the building will also require an address number on the rear of the building.
4. Failure to Comply. Any person who shall fail to comply with any of the provisions of this chapter, or who shall number or attempt to number any house or building other than in conformity with this chapter, or who shall fail to change the number, if wrong, within thirty (30) days after being notified in writing to do so by the Police Chief, shall be in violation of this Code of Ordinances. In addition, the City may proceed to place the assigned number on the building and assess the costs against the property for collection in the same manner as a property tax.

150.03 ADDRESS NUMBERING PLAN. Address numbers shall be assigned in accordance with the address numbering plan on file in the office of the City Clerk.

CHAPTER 151 TREES

151.01 Definition
 151.02 Planting Restrictions
 151.03 Duty to Trim Trees
 151.04 Method of Service and Billing

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. No trees shall be planted in designated City rights-of-ways. In the event a curb line is not established, trees shall be planted on a line ten (10) feet on the property side from the property line.
2. Spacing. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.

1. Any property within the City of Audubon, whether vacated or non-vacated, is required to be in compliance with the overhanging height requirements detailed directly above on the first (1st) day of June, and the first (1st) day of October of each year.
2. If such any property is not in compliance at by those dates 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.

151.04 METHOD OF SERVICE AND BILLING. Annual publication of the ordinance codified (151.3 and 151.3(a)) by this chapter will serve as notice to property owners, any billings for trimming done by the City or their agents are to be sent by regular mail and are payable within 30 days of the billing date. If not paid within said period the City Clerk shall, assess the cost of such trimming to and against the owner of the lot or parcel of ground upon or opposite where such work was done and declare the same, together with the costs of serving notices and all other costs connected therewith to be a lien and charge upon said lot or parcel of ground, and report the same to the County Treasurer, who shall take the necessary steps to cause the same to be placed on the tax list to be collected at the time and in the manner provide by law for the collection of other taxes.

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 that 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 dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

CHAPTER 152 RESERVED

CHAPTER 153 RESERVED

CHAPTER 154 RESERVED

CHAPTER 155 RESERVED

CHAPTER 156 RESERVED

CHAPTER 157 RESERVED

CHAPTER 158 RENTAL HOUSING CODE

158.01 Scope of Provisions

158.02 Codification Provisions

158.03 Definitions

158.04 Inspection and Enforcement

158.05 Appeals

158.06 Minimum Structure Standards for All Rental Dwellings

158.07 Responsibilities of Owners Relating to the Maintenance and Occupancy of Premises

158.08 Responsibilities of Occupants Relating to the Maintenance and Occupancy of Premises

158.09 Penalty

158.01 SCOPE & INTENT OF PROVISIONS. The provisions of this chapter (which may be known and cited as the Rental Housing Code for the City of Audubon, Iowa) apply to all rental dwellings within the City limits used or intended to be used for human occupancy, except that these provisions are not applicable to temporary housing as defined in this chapter. Any violation of the provisions herein shall result in a fine of \$100.00 in addition to other relief available to the City. This Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

158.02 CONFLICTING PROVISIONS. In any case where a provision of this chapter is found to conflict with a provision of any zoning, building, fire, safety, or health ordinance or code of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

158.03 DEFINITIONS. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof." The word "building" includes the word "structure" and the word "lot" includes the word "plot." The following terms are also defined for use in this chapter:

1. "Acceptable" or "approved" means in substantial compliance with the provisions of this chapter.
2. "Accessory structure" means a detached structure which is not used, or intended to be used, for living or sleeping by human occupants.
3. "Adjoining grade" means the elevation of the ground which extends three (3) feet from the perimeter of the dwelling.
4. "Appurtenance" means that which is directly or indirectly connected or accessory to a thing
5. "Attic" means any story situated wholly or partly within the roof or so designed, arranged or built to be used for business, storage, or habitation.
6. "Basement" means a story having a part but not more than one-half of its height above grade, which may or not be considered habitable space. A basement is counted as a story for the purpose of height regulations. Secured by other than normal means a building secured by means other than those used in the design of the building.
7. "Bath" means a bathtub or shower stall connected with both hot and cold-water lines.

8. "Central heating system" means a single system supplying heat to one or more dwelling units or more than one rooming unit.
9. "Code Enforcement Officer" means the official of the City appointed to administer this chapter and any duly authorized representatives.
10. "Communal" means used or shared by, or intended to be used or shared by, the occupant of two or more rooming units or two or more dwelling units.
11. "Condominium" means a dwelling unit which complies or conformance with the requirements of Chapter 4998 of the Code of Iowa, as amended.
12. "Cooperative" means a dwelling unit which complies or conformance with the requirements of Chapter 4998 of the Code of Iowa, as amended.
13. "Court" means an open unoccupied space, other than a yard, on the same lot with a dwelling. A court not extending to the street or front or rear yard is an inner court. A court extending to the street or front yard or rear yard is an outer court.
14. "Dining room" means a habitable room used or intended to be used for the purpose of eating, but not for cooking or the preparation of meals.
15. "Duplex" means any habitable structure containing two single dwelling units.
16. "Dwelling" means any building, structure, or mobile home, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes any appurtenances attached thereto.
17. "Dwelling, efficiency" - see efficiency dwelling.
18. "Dwelling, multiple" - see "multiple dwelling."
19. "Dwelling, single-family" - see "single-family dwelling."
20. "Dwelling unit" means any habitable room or group of adjoining habitable rooms, located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking and eating of meals.
21. "Efficiency dwelling" means a dwelling unit with a sleeping area open to the living area, with no intervening door.
22. "Egress" means an arrangement of exit routes to provide a means of exit from buildings and/or premises.
23. "Exit" means a continuous and unobstructed means of egress to a public way and includes intervening doors, doorways, corridors, windows, exterior-exit balconies, ramps, stairways, smoke- proof enclosures, horizontal exits, exit passageways, exit courts, walkways, sidewalks, and yards.
24. "Extermination" means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the Code Enforcement Officer
25. "Family" means one or more persons occupying a dwelling and living as a single housekeeping unit. Each individual or group of individuals to whom rent is charged as a single unit shall be considered to be a separate family. A family shall not exceed two (2) unrelated people with related children.

26. "Garbage" means animal or vegetable waste resulting from the handling, preparation, cooking, or consumption of food and also means combustible waste material. "Garbage" also includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, and other combustible materials.
27. "Habitable room" means a room or enclosed floor space, having a minimum of seventy(70) square feet of total floor area within a dwelling unit or rooming unit used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, toilet rooms, pantries, laundries, foyers, communicating corridors, closets, storage spaces, and stairways.
28. "Historical" means any property designated by the Audubon Preservation Commission as a Historical Site or any property on the National Register of Historical Places.
29. "Infestation" means the presence, within or around a dwelling, of any insects, rodents, or other pests, in such quantities as would be considered unsanitary.
30. "Kitchen" means a habitable room used or intended to be used for cooking or the preparation of meals.
31. "Kitchenette" means a food preparation area not less than forty (40) square feet in area.
32. "Kitchen sink" means a basin for washing utensils used for cooking, eating, and drinking, located in a kitchen and connected to both hot and cold-water lines and properly connected to a drainage system.
33. "Lavatory" means a hand-washing basin which is connected to both hot and cold-water lines, and properly connected to a drainage system, which is separate and distinct from a kitchen sink.
34. "Living room" means a habitable room within a dwelling unit which is used, or intended to be used, primarily for general living purposes.
35. "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.
36. "Multiple dwelling" means any dwelling containing three or more dwelling units.
37. "Occupant" means any person, including owner or operator, living in, sleeping in, and/or cooking in, or having actual possession of a dwelling unit or a rooming unit.
38. "Operator" means any person who rents to another or who has custody or control of a building, or parts thereof, in which dwelling units or rooming units are let or who has custody or control of the premises.
39. "Owner" means any person who has custody and/or control of any dwelling, dwelling unit or rooming unit by virtue of a contractual interest in or legal or equitable title to the dwelling,
40. "Permit" - see "rental permit."
41. "Placard" means any display document showing that the unit for which it is issued has been determined to be unfit for human habitation.

42. "Plumbing" means and includes any or all the following supplied facilities and equipment: water pipes, garbage disposal units, waste pipes, toilets, sinks, lavatories, bathtubs, shower baths, water heating devices, catch basins, drains, vents, and any other similar supplied fixtures together with all connections to water and sewer.
43. "Premises" means a lot, plot, or parcel of land including a building and/or accessory structure thereon.
44. "Privacy" means the existence of conditions which will permit a person or persons to carry out an activity commenced without interruption or interference by unwanted persons.
45. "Properly installed, connected, constructed, or repaired" means as required by this or any other building, plumbing, mechanical or electrical code of the city, including work to be done in a workmanlike manner.
46. "Public way" means any parcel of land, unobstructed from the ground to the sky, more than ten feet in width, appropriated to the free passage of the public.
47. "Refuse" means waste materials (except human waste) including garbage, rubbish, ashes, and dead animals.
48. "Refuse container" means a watertight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating unsanitary conditions.
49. "Rental permit" means a document, issued periodically, which grants the owner or operator the option of letting a unit for rental purposes and showing that the unit for which it is issued was in compliance with the applicable provisions of this chapter at the time of issuance.
50. "Roomer" means an occupant of a rooming house or rooming unit and shall also mean an occupant of a dwelling who is not a member of the family occupying the dwelling except for guests and/or domestic employees.
51. "Rooming house" means any dwelling, or that part of any dwelling, containing one or more rooming units, including, but not limited to hotels and motels, in which space is let by the owner or operator to one or more persons. Occupants of units specifically designated as dwelling units within a rooming house shall not be included in the roomer count. An owner-occupied, single-family dwelling, condominium, or cooperative containing a family plus one or two roomers shall be excluded from this definition and be treated as a owner-occupied, single-family dwelling.
52. "Rooming unit" means any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used, or intended to be used, primarily for living and sleeping. A rooming unit shall have bath and toilet facilities available for exclusive use by the occupant or for communal use in accordance with subsections 158.07(15) through (22) and, in addition, may have kitchen and dining facilities available for use by the occupant therein.
53. "Rubbish" means inorganic waste material consisting of combustible and/or noncombustible materials.
54. "Single-family dwelling" means a structure containing one dwelling unit.
55. "Supplied Facility" means equipment, appliance or system paid for, furnished by, provided by, or under the control of the owner or operator.

56. "Temporary housing" means any tent, trailer, motor home, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) days.

57. "Toilet" means a water closet, with a bowl and trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl and which is equipped with a flushing rim or flushing rims.

158.04 INSPECTION AND ENFORCEMENT.

1. Authority. The Code Enforcement Officer is authorized to administer and enforce the provisions of the Rental Housing Code and to make inspections to determine the conditions of all dwellings, dwelling units, rooming units, structures, and premises located within the City, in order that the Code Enforcement Officer may perform the duty of safeguarding the health, safety, and welfare of the occupants of dwellings and of the general public under the provisions of this chapter.

2. Inspection of Rental Units. Inspection of rental units shall be conducted upon request, on a complaint basis, and/or through a program of regular rental inspections which program shall not be conducted more frequently than yearly or less frequently than the set schedule indicated below:

- A. Single family dwelling -- Every 1 years
- B. Duplex -- Every 1 years
- C. Owner-occupied plus more than 2 dwelling units -- Every 1 years
- D. Multiple dwelling units -- Every 1 years
- E. Rooming houses -- Every 1 years

3. The provisions of Sections 158.07 through 158.09 of this chapter shall apply to the inspections of all rental units. As an incentive to encourage property owners to maintain their properties, if on the first inspection a Single family dwelling has only one deficient item, a duplex or a triplex building has only one deficient item in the entire building, or a four plex or larger building has only one deficient item in no more than 25% of the units, then the frequency of regular reinspection shall be set as indicated in the schedule below and the annual rental housing permit fee shall be 80% of the normal rate annually for the next 2 years:

- A. Single family dwelling -- Every 2 years
- B. Duplex -- Every 2 years
- C. Owner-occupied plus more than 2 dwelling units -- Every 2 years
- D. Multiple dwelling units -- Every 2 years
- E. Rooming houses -- Every 2 years

4. If a unit becomes vacant and it has been at least 12 months from the last inspection of that unit an owner may, but the owner is not required to, request the city

complete a regular inspection while the unit is vacant to avoid future disruption of the tenant.

5. Access by Owner or Operator. Every occupant of a dwelling, dwelling unit, or rooming unit shall give, upon proper notice, the owner or operator thereof, or any authorized agent or employee, access to any part of such dwelling, dwelling unit, rooming unit, or premises at all reasonable times for the purpose of effecting such maintenance, making such repairs, or making such alterations as are necessary to effect compliance with, or any lawful notice or order issued pursuant to the provisions of Sections 158.07 through 158.09.

6. Access by the Code Enforcement Officer. Whenever authorized to inspect or whenever the Code Enforcement Officer has reasonable cause to believe that there exists any condition in violation of any provisions of this chapter or in response to a complaint that an alleged violation may exist, the Code Enforcement Officer may enter such unit or premises during reasonable times to inspect and perform any action authorized by this chapter. If such unit or premises is tenant-occupied, the Code Enforcement Officer shall also notify the owner or other persons having charge or control of the building or premises of the requested entry. The Code Enforcement Officer shall at such times present official identification and explain why entry is sought; and if entry is refused, the Code Enforcement Officer shall request that the inspection be conducted at a reasonable time, suitable to the owner or occupant. If the request for future entry is refused, the Code Enforcement Officer shall at that time, or at a later time, explain to the owner and/or occupant that said owner and/or occupant may refuse, without penalty, entry without a search warrant, and the Code Enforcement Officer may apply to the Iowa District Court for an administrative search warrant pursuant to Section 1.12, Audubon Code of Ordinances and Section 88.14 Iowa Code.

7. Administrative Search Warrant. If consent to inspect a building is withheld by any person having the lawful right to exclude, the Code Enforcement Officer may apply to the Iowa District Court in and for Audubon County for an administrative search warrant of the building. No owner or occupant or any other person having charge, care, or control of any dwelling, dwelling unit, rooming unit, structure, or premises shall fail or neglect, after presentation of an administrative search warrant, to properly permit entry therein by the Code Enforcement Officer for the purpose of inspection and examination pursuant to this chapter.

8. Violation Notice. Whenever the Code Enforcement Officer determines, upon the basis of an inspection or other reliable information, a premises has one or more violations of this chapter, the Code Enforcement Officer shall give to the owner (and the tenant if a violation relates to Section 158.09) of the premises a written notice in substantially the following form:

9. The order set out in this subsection shall be served upon the owner personally, upon a member of the owner's family (if that person is of suitable age and discretion and informed of the contents thereof) personally, upon the owner by registered or certified mail with return receipt requested to the owner's last known address (per County Assessor's records); or upon the failure of all above methods, and by posting a copy thereof in a conspicuous place in or about the dwelling affected by the order. The owner (and the tenant if a violation relates to Section 158.09 of this chapter) may appeal against the order by filing a written notice of appeal with the City Council within seven (7) days of the service of the order. The issues on appeal are restricted to disputes

regarding the cited violations, requests for additional time for compliance, and requests for variances. The Code Enforcement Officer shall, after expiration of the time given in order to repair, correct and comply (or as it may be modified on appeal), reinspect the premises as appropriate. The owner's or tenant's failure to comply with the order shall constitute a municipal infraction as defined in this Code of Ordinances.

10. Denial or Revocation of Rental Permit; Order to Vacate. Whenever the Code Enforcement Officer determines that the order to correct, repair and comply (or as it may be modified on appeal) has not been complied with, the Code Enforcement Officer shall deny or revoke the rental permit for the premises and order the premises vacated. The denial or revocation and order shall be effective thirty (30) days after receipt by the owner and tenant of the premises of a written notice of the denial or revocation of the rental permit and order to vacate in substantially the following form:

NOTICE OF DENIAL OR REVOCATION OF RENTAL PERMIT AND ORDER TO VACATE		
To: _____	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Re: _____	<input checked="" type="checkbox"/> Location in Violation	
<p>You are hereby notified that the Rental Housing Code Enforcement Officer has determined that the Order to Repair, Correct and Comply dated _____ affecting the <i>above</i> premises has not been complied with and the following violations of the Rental Housing Code still exist:</p>		
Code Section	Description of Violation	Location of Violation
_____	_____	_____
_____	_____	_____
<p>You are hereby notified that, effective thirty (30) days after receipt of this notice and order, the rental permit covering the <i>above</i> premises is revoked (or the application for a rental permit is denied) and you are ordered to have the <i>above</i> premises vacated within such <u>period</u>.</p>		
<p>You are advised that the revocation or denial of the rental permit and order to vacate the premises may be appealed by filing a written notice of <u>appeal</u>, containing the reasons for the appeal, with the City Council, City Hall, Audubon, Iowa within <u>seven (7)</u> days of your receipt of this notice and order. Your appeal is solely limited to the issue of whether the previous Order to Repair, Correct and Comply (or as it may have been modified <u>on</u> a previous appeal) has been complied with and may not address matters concerning such <u>order</u> which were subject to previous appeal rights. However, tenants may, by filing a timely appeal, also request additional time to <u>move</u>.</p>		
<p>You are further advised that this order to vacate may be judicially enforced and that the occupancy or sufferance of occupancy of the affected premises after the expiration of the thirty (30) day period provided herein without a valid rental permit constitutes a municipal infraction per the City Code.</p>		

11. The above notice and order shall be served upon the owner and tenant personally, upon a member of the owner's and tenant's family (if that person is of suitable age and discretion and informed of the contents thereof) personally, upon the owner and tenant by registered or certified mail, with return receipt requested, to the owner's last known address per County Assessor's records; or upon the failure of all above methods, by posting the copy thereof in a conspicuous place in or about the dwelling affected by the notice and order. In the instance where all the cited violations are tenant violations under Section 158.09, the notice and order set out in this subsection shall be modified to delete reference to the revocation or denial of the rental permit for the premises and the owner may cause the premises to be re-occupied by the different tenants. The owner and/or tenant may appeal against the notice and order by filing a written notice of appeal with the City Council within seven (7) days of this service of the notice. The issue on appeal is solely limited to the issue of whether the previous order to repair, correct and comply (or as it may have been modified on a previous appeal) has been complied with and may not address matters concerning such order which were subject to previous appeal rights. However, tenants may, by filing a timely appeal, also request additional time to move. The order to vacate may be judicially enforced and violation of the order to vacate and the occupancy or sufferance of occupancy of the affected premises after the expiration of the thirty-day period provided herein (or after such additional time as the City Council may have granted a tenant to move) without a valid rental permit constitutes a municipal infraction as defined in this Code of Ordinances.

12. Emergency Orders and Placarding. Whenever the Code Enforcement Officer, in the enforcement of this chapter, finds in or about a dwelling condition which pose an immediate and serious threat to the health or safety of the occupants and/or the general public, the Code Enforcement Officer shall give to the owner and occupants of the premises a written order in substantially the following form:

EMERGENCY ORDER TO VACATE		
To:	_____	Owner
	_____	Tenant
Re	_____ Location in Violation	
<p>You are hereby notified that the Code Enforcement Officer has determined that the above premises contain the following violations of the City of Audubon Rental Housing Code, which violations pose an immediate and serious threat to the health or safety of the occupants thereof and/or the general public:</p>		
Code Section	Description of Violation	Location of Violation
_____	_____	_____
_____	_____	_____
_____	_____	_____
<p>You are hereby ordered to vacate the above premises within 48 hours of your receipt of this order.</p> <p>You are advised that if the condition cited above is corrected and repaired before the expiration of your time limit herein, you may contact the Code Enforcement Officer, who may confirm the repair of the condition and rescind this order.</p> <p>You are advised that this order may be appealed by filing a written notice of appeal containing the reasons for appeal with the Housing Appeals Board, City Hall, Carroll, Iowa, within twenty-four (24) hours of your receipt hereof. The appeal may dispute the above code violations, but it may not request additional time for compliance, nor will the filing of an appeal act to delay the deadline for vacating the premises.</p> <p>You are further advised that this order to vacate may be judicially enforced and your failure to comply with this order (or as it may be modified on appeal) constitutes a municipal infraction per Chapter 3 of the City Code.</p>		

13. The above notice and order shall be served upon the owner and tenant personally, or by phone, fax, or e-mail (due to the urgency of the emergency order) if immediate personal service cannot be accomplished after reasonable attempts and by posting the copy thereof in a conspicuous place in or about the dwelling affected by the notice and order. The owner may appeal against the order by filing a written notice of appeal with the City Council within twenty-four (24) hours of the service of the order. The sole issue on appeal is the cited violation. Time to comply or vacate may not be an issue on an appeal of the order, nor will the filing of an appeal extend the number of days before the premises must be vacated. The Code Enforcement Officer, upon issuing an emergency order to vacate, shall post upon the dwelling a placard designating the dwelling as unfit for human habitation. No dwelling which has been placarded shall again be used for human habitation until a written approval is secured and such placard is removed by the Code Enforcement Officer. The Code Enforcement Officer shall remove such placard whenever the violation upon which the placarding action was based has been eliminated. No person shall deface or remove the placard from any dwelling which was the subject of an emergency order to vacate and placarded as such.

An emergency order to vacate may be judicially enforced and a violation of the emergency order to vacate and the occupancy or sufferance of occupancy of the affected premises after the expiration period provided in the order constitutes a municipal infraction as defined in this Code of Ordinances.

158.05 APPEALS .

1. Jurisdiction. Any person affected by a written notice and/or order issued under this chapter which is specifically subject to appeal, may appeal to the City Council by filing a written appeal specifying the grounds therefore within the time limits provided. Appeals shall include requests for additional time and variances allowed under this chapter. The filing of an appeal does not delay the time for compliance with a notice or order unless the City Council fails to determine the matter within the time limit provided for compliance with the notice or order in which case such time for compliance shall automatically be extended to the time such determination is made except in the instance of an emergency order.

2. Procedures.

A. The City Council, upon receipt of a written appeal, shall set a time and place for the hearing. The applicant shall be advised, in writing, of such time and place at least seven (7) days prior to the date of the hearing. At such a hearing the appellant shall have an opportunity to be heard and to show cause as to why such notice or order should be modified, extended, revoked, or why a variance should be granted. The City Council, by a majority vote, may sustain, modify, extend, or revoke a notice or order and grant or deny a variance.

B. The City Council may grant additional time for compliance with a notice or order where specifically recognized by this chapter. However, the City Council may, by an express determination, retain jurisdiction of a matter concerning additional time and make tentative extensions to be finally determined at a later date and time by the City Council. In the event that additional time or tentative extensions are granted, the City Council shall make specific findings of fact based on evidence relating to the following:

- (1) That there are historical or practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and
- (2) That such additional time or a tentative extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety, and general welfare. Except under extraordinary circumstances, the grant of additional time, including the sum of tentative extensions shall not exceed twelve (12) months.

C. The City Council may grant a variance in a specific case and from a specific provision of this chapter subject to appropriate conditions; and provided the City Council makes specific findings of fact based on the evidence presented on the record as a whole, and related to the following:

- (1) That there are historical or practical difficulties or unnecessary hardships in carrying out a strict letter of any notice or order; and
- (2) That due to the particular circumstances presented, the effect of the application of the provisions would be arbitrary in the specific case; and

- (3) That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships in this arbitrary effect; and
- (4) That such variance is in harmony with the general purpose and intent of this chapter in securing the public health, safety, and general welfare.

D. Upon appeal or the request of the Code Enforcement Officer, the City Council may consider the adoption of a general variance. The City Council by a majority vote may establish a general variance for existing structures which cannot practicably meet the standards of the Rental Housing Code. Prior to considering any general variance, public notice shall be given. A general variance, if granted, shall:

- (1) State in what manner the variance from the specific provision is to be allowed; and
- (2) State the conditions under which the variance is to be made; and
- (3) Be based upon specific findings of fact based on evidence related to the following:
 - i That there are practical difficulties or unnecessary hardships in carrying out the strict letter of the specific provision, common to dwellings, dwelling units, or rooming units to which the variance will apply, and
 - ii That such variance is in harmony with the general purpose and intent of this chapter in securing the public health, safety and general welfare.

3. Amendments. Additionally, the City Council may on its own motion recommend improvements, amendments or modifications to this chapter.

158.06 MINIMUM STRUCTURE STANDARDS FOR ALL RENTAL DWELLINGS.

- 1. Supplied Facility. Every supplied facility piece of equipment or required utility shall be constructed and/or installed so that it will function safely.
- 2. Kitchens. Every dwelling unit shall have a kitchen room or kitchenette equipped with the following:
 - A. A fully functioning kitchen sink.
 - B. Space capable of properly accommodating a refrigerator and a stove or range.
 - C. Proper access terminals to utilities necessary to properly operate a refrigerator and stove or range.
 - D. Adequate space for the storage and preparation of food.
- 3. Water Closet Required. Every dwelling unit shall contain an approved water closet.
- 4. Bath Required. Every dwelling unit shall contain an approved bathtub or shower.

5. Lavatory Basin Required. Every dwelling shall contain an approved lavatory basin within or adjacent to the room containing the toilet.
6. Privacy in a Room Containing Toilet and Bath. Every toilet and every bath shall be contained within a room or within separate rooms which afford privacy for a person within said rooms.
7. Water Heating Facilities Required. Every kitchen sink, bath and lavatory basin required in accordance with the provisions of this chapter shall be properly connected with supplied water heating facilities. Every supplied water heating facility shall be properly connected and shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every kitchen sink and lavatory basin required under the provisions of this chapter at a temperature of not less than one hundred twenty degrees (120°) Fahrenheit [forty-eight degrees (48°) centigrade]. Such supplied water heating facilities shall be capable of meeting the requirements of this section when the required space heating facilities are not in operation.
8. Connection of Sanitary Facilities to Water and Sewer Systems. Every kitchen sink, laundry sink, mop sink, toilet, lavatory basin, and bath shall be properly connected to an approved water and sewer system.
9. Exits.
 - A. Every dwelling unit and every rooming unit shall have access directly to the outside or to a public corridor.
 - B. Every rental dwelling shall have at least two (2) exits as a means of egress from each floor, one of which may be a window. This requirement applies to the ground floor and any other floor that includes sleeping rooms.
 - C. All windows used as exits for means of egress shall have a minimum net clear opening of 4.0 square feet and the minimum net clear opening dimensions shall be at least twenty-four (24) inches by twenty (20) inches. Exception: Windows of slightly lesser dimensions which were installed in conformance with a previous building code may be approved by the Code Enforcement Officer providing they have minimum net clear opening dimensions of at least twenty-two (22) inches by eighteen (18) inches. Where windows are provided as means of egress or rescue, they shall have finished sill height not more than forty-four (44) inches above the floor, except that a step or step stool may be used to maintain the 44-inch sill height requirement.
 - D. New dwelling units shall have exits as required by the Building Code and Fire Code of the City of Audubon.
 - E. Every means of egress shall comply with the following requirements:
 - (1) Handrails. All stairways comprised of four (4) or more risers shall be provided with a substantial and safe handrail. Unenclosed floor and roof openings, open and glass sides of landings and ramps, and balconies or porches which are more than thirty (30) inches above grade or above the floor below shall be provided with a substantial and safe guardrail.
 - (2) Every stairway shall have a width, riser height and tread width which shall be adequate for safe use.
 - (3) Doors and windows readily accessible from outside the unit shall be lockable from inside the unit.

(4) Every doorway providing ingress or egress from any dwelling unit, rooming unit or habitable room shall be at least six (6) feet high and twenty-two (22) inches wide.

(5) Designated egress doorways and windows in all rental dwellings on any floor with more than four (4) dwelling units or more than six sleeping rooms in the case of a rooming house, shall be marked with illuminated exit signs.

10. Ventilation.

A. Every dwelling unit and rooming unit shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, mold, and other harmful air pollutants.

B. Every window or other device with openings to the outdoor space, used for ventilation, shall be supplied with screens of not less than sixteen mesh per inch.

C. Every system of mechanical ventilation, such as air conditioners and vent fans shall be maintained in operable condition.

11. Heating. Every dwelling shall have heating facilities which are properly installed and are capable of safely and adequately heating all habitable rooms, bathrooms, and toilet rooms located therein to a temperature of at least sixty-eight degrees (68°) Fahrenheit [twenty degrees (20°) centigrade] and shall be capable of maintaining in all said locations a minimum temperature of sixty-five degrees (65°) Fahrenheit, [eighteen degrees (18°) centigrade] at a distance of three (3) feet above the floor level at all times. Such heating facilities shall be so designed and equipped that heat, as herein specified, is available for all dwelling units and rooming units.

12. Electrical Requirements. Every habitable room shall contain at least two separate floor or wall-type electrical double convenience outlets which shall be situated a distance apart equivalent to at least twenty-five percent (25%) of the perimeter of the room. Every such outlet and fixture shall be properly installed. Every habitable room, toilet room, laundry room, furnace room, basement and cellar shall contain at least one supplied ceiling or wall-type electric light fixture or switched outlet. Every such outlet and fixture shall be properly installed. Temporary wiring or extension cords shall not be used as permanent wiring.

13. Minimum Space, Use and Location Requirements.

A. Habitable rooms shall have a floor area of not less than 70 square feet.
Exception: Kitchens.

B. Sleeping Rooms. In every dwelling unit of two or more rooms and every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor space and every room occupied for sleeping purposes by two occupants shall contain at least one hundred (100) square feet of floor space per sleeping room. An additional thirty (30) square feet per room is needed for each additional occupant, with maximum bedroom occupancy of four (4). Example: 1 sleeping room with 4 occupants= 160 Sq. Ft. Exception: The maximum occupancy of a sleeping room may be exceeded by one (1) child under the age of five (5) years, provided that the maximum occupancy of the dwelling unit is not exceeded.

C. Ceiling Height. The ceiling height of every habitable room shall be at least six feet four inches (6'4"). In any habitable room where the ceiling is a part of a sloping roof, at least one-half of the floor area shall have a ceiling height of at least six feet four inches (6'4"). "Floor area," as used in this subsection, means the area of the floor where the vertical measurement from floor to ceiling is five (5) feet or more. Obstruction of space by such items as water and gas pipes, cabinetry, etc., shall be permitted when such obstructions are located within two (2) feet of a partition or wall, do not interfere with an emergency ingress and egress, and are approved by the Code Enforcement Officer. Obstruction of a ceiling space shall be permitted when such obstruction is located at a height of not less than six feet four inches (6'4") from the floor.

14. Direct Access. Access to each dwelling unit or rooming unit shall not require first entering any other dwelling unit or rooming unit (except that access to a dwelling unit or a rooming unit may be through a living area of a unit occupied by the owner-operator of the structure). No dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room. A bathroom or water closet compartment shall not be used as the only passageway to any habitable room, hallway, basement, or to the exterior of the dwelling unit or rooming unit.

15. Lighting of Public Halls and Stairways. Public passageways and stairways in dwellings accommodating two to four dwelling units or rooming units shall be provided with convenient wall-mounted light switches which activate an adequate lighting system. Public passageways and stairways in buildings accommodating more than five (5) dwelling units or rooming units shall be always lighted with an adequate artificial lighting system, except that such artificial lighting may be omitted from sunrise to sunset where an adequate natural lighting system is provided. Whenever the occupancy of a building exceeds one hundred (100) persons, the artificial lighting system as required herein shall be on an emergency circuit.

16. Fire Extinguishers; Minimum Approved Type. All rental dwelling units and rooming houses shall have a two and one-half pound type "ABC" fire extinguisher or have access to a fire extinguisher within seventy-five (75) feet of any unit, which is approved by the Code Enforcement Officer or Fire Chief. Fire extinguishers should be properly hung in an area of easy access or hung inside a cabinet under the kitchen sink. Extinguishers may not be located or mounted over the kitchen range (stove/oven).

17. Early Warning Fire Protection. All rental units shall have a centrally located smoke detector on each level.

18. A carbon monoxide detector located a maximum of four (4) feet off the floor or where recommended by the manufacturer, shall be provided on the main level and on each level with bedrooms. Exception: Units without gas piping may omit carbon monoxide detectors provided they do not have an attached garage.

19. Water Closets and Lavatory Basins. At least one approved water closet and one approved lavatory basin shall be supplied for each eight (8) persons or fraction thereof residing within a dwelling containing a rooming unit or units, including members of the operator's family whenever they share the said facilities, provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half of the required number of water closets.

20. Baths. At least one approved bath shall be supplied for each eight (8) persons or fraction thereof residing within a dwelling containing a rooming unit or units, including members of the operator's family whenever they share the use of the facilities.
21. Location of Communal Toilets and Baths. Communal toilets and baths shall be located on the same floor or the floor immediately above or below the rooming unit.
22. Communal Kitchens. If a communal kitchen is supplied, it shall comply with the following requirements:
 - A. The minimum floor area of a communal kitchen shall be fifty (50) square feet. Floor area shall include that part of the floor occupied by cabinets and appliances. If the dining area is separate from the kitchen area, it shall have a minimum floor area of fifty (50) square feet.
 - B. The minimum floor area of a communal kitchen in which roomers are permitted to prepare and eat meals shall be one hundred (100) square feet.
 - C. The communal kitchen shall be equipped with the following:
 - (1) A refrigerator with an adequate food storage capacity
 - (2) An approved kitchen sinks.
 - (3) A stove or range.
 - (4) At least one cabinet of adequate size suitable for the storage of food and eating and cooking utensils.
 - (5) At least six (6) square feet of surface area which is easily cleanable and suitable for the preparation of food.
 - (6) An eating surface and adequate chairs for the normal use of the facilities if a communal dining room is not supplied.
 - D. Every communal kitchen shall be located within a room accessible to the occupants of each rooming unit sharing the use of such kitchen, without going outside of the dwelling and without going through a dwelling unit or rooming unit of another occupant.
23. Kitchens: Stoves and Refrigerators. Kitchens or kitchenettes in all rental dwellings shall be supplied with a stove or range and a refrigerator by the owner, operator, or tenant(s).

158.07 RESPONSIBILITIES OF OWNERS RELATING TO THE MAINTENANCE AND OCCUPANCY OF PREMISES.

1. Maintenance of Structure
 - A. Every foundation, roof, floor, wall, ceiling, stair, step, elevator, handrail, guardrail, porch, sidewalk, and appurtenance thereto shall be maintained in safe and sound condition and shall be capable of supporting the loads that normal use may cause to be placed thereon.
 - B. Every foundation, floor, exterior wall, exterior door, window, and roof shall be maintained in reasonably weather-tight, watertight, rodent resistant and insect resistant condition. All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

C. Every door, door hinge, door latch, and door lock shall be maintained in good and functional condition and every door, when closed, shall fit reasonably well within its frame.

D. Every window, existing storm window, window latch, window lock, and other aperture covering, including its hardware, shall be maintained in good and functional condition, and shall fit reasonably well within its frame.

E. Every interior partition, wall, floor, ceiling, and other interior surface shall be maintained so as to permit it to be kept in a clean and sanitary condition, and where appropriate, shall be capable of affording privacy.

2. Maintenance of Accessory Structures. Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and appurtenance of every accessory structure shall be so maintained as to prevent the structure from becoming a harborage for rats or other vermin and shall be kept in a reasonably good state of repair.

3. Rainwater Drainage. All eaves, downspouts, and other roof drainage equipment on the premises shall be maintained in a good state of repair and so installed as to direct rainwater away from the structure. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

4. Grading, Drainage and Landscaping of Premises. Every premises shall be graded and drained so no stagnant water will accumulate or stand thereon. Every premise shall be continuously maintained by suitable landscaping with grass, trees, shrubs, or other planted groundcover designed to reduce and control dust. Exception: This chapter shall not affect the existence or maintenance of storm water detention systems.

5. Chimneys and Smoke Pipes. Every chimney and every supplied smoke pipe shall be adequately supported, reasonably clean, and maintained in a reasonably good state of repair.

6. Protection of Exterior Wood Surfaces. All exterior wood surfaces of a dwelling and its accessory structures, fences, porches, and similar appurtenances shall be reasonably protected from the elements and against decay.

7. Means of Egress. Every means of egress shall be maintained in good condition and shall be always free of obstruction.

8. Hanging Screens and Storm Windows. The owner or operator of the premises shall be responsible for hanging all screens and storm windows required by this code, except when there is a written agreement between the owner and the occupant to the contrary. Screens shall be provided no later than the first day of June of each year and storm windows shall be provided no later than the first day of December of each year.

9. Electrical System. The electrical system of every dwelling or accessory structure shall not by reason of overloading, dilapidation, lack of insulation, improper fusing, or for any other cause expose the occupants to hazards of electrical shock or fire, and every electrical outlet, switch, and fixture shall be maintained in good and safe working condition. The owner or operator shall supply properly sized fuses or equivalent, at the beginning of each tenant's occupancy.

10. Maintenance of Supplied Plumbing Fixtures. Every supplied plumbing fixture and water and waste pipe shall be maintained in good and sanitary working condition. All plumbing shall be so designed, installed or replaced to prevent contamination of the water supply through backflow, back siphonage, or cross-connection. Water pressure shall be adequate to always permit a proper flow of water from all open outlets.
11. Maintenance of Gas Appliances and Facilities. Every gas appliance shall be connected to a gas line with rigid iron piping except that listed metal appliance connectors or semi-rigid tubing may be used if approved by the Code Enforcement Officer. An approved flexible connector of no longer than six feet in length may be used to connect a gas range and gas clothes dryer to the gas supply line. Every indoor gas appliance shall have an approved shutoff valve, which shall be installed in the gas line outside of each appliance and ahead of the union connection thereto, in addition to any valve provided on the appliance. Said valve shall be clearly visible and located in the same room as the appliance. Every gas pipe shall be sound and tightly put together and shall be free of leaks, corrosion, or obstruction to reduce gas pressure or volume. Gas pressure shall be adequate to always permit a proper flow of gas from all open gas valves.
12. Maintenance of Heating and Supplied Cooling Equipment. The heating equipment of each dwelling shall be maintained in good and safe working condition and shall be capable of heating all habitable rooms, bathrooms, and toilet rooms located therein to the minimum temperature required in this chapter. However, heating and supplied cooling equipment shall not be required to be maintained in operational condition during that time of the year when the equipment is not normally used.
13. Floors - Kitchen and Bathrooms. Every toilet room floor surface, bathroom floor surface, and kitchen floor surface shall be constructed and maintained to permit such floor to be easily kept in a clean, dry, and sanitary condition.
14. Supplied Facilities. Every facility, utility, and piece of equipment required by this chapter and/or present in the unit and/or designated for the exclusive use by the occupants of the unit at the time that either the rental agreement is signed, or possession is given shall function safely and shall be maintained in proper working condition. Maintenance of facilities, utilities, and equipment not required by this chapter shall be the owner's responsibility unless stated to the contrary in the rental agreement. No required supplied facility shall be removed, shut off, or disconnected from any occupied dwelling unit or rooming unit except for such temporary interruption as may be necessary while actual repairs, replacements, or alterations are being made.
15. Refrigerators and Stoves. All supplied refrigerators, stoves, and ranges shall be maintained in good and safe working conditions.
16. Toilets, Baths, and Lavatory Basins. All toilets, baths, and lavatory basins shall be maintained in good and sanitary working condition.
17. Fire Protection. All fire extinguishers and early warning fire protection systems shall be always maintained in good working condition and shall be provided at the beginning of each tenancy.
18. Covered Cisterns. All cisterns or similar water storage facilities shall be fenced, safely covered, or filled in such a way as not to create a hazard to life or limb.

19. Sealed Passages. All pipe passages, abandoned gas lines, chutes, and similar openings through walls or floors shall be adequately enclosed or sealed to prevent the spread of fire or passage of vermin.
20. Pest Extermination. Whenever infestation exists in two or more of the dwelling units or rooming units of any dwelling, or in the shared or public parts of any dwelling containing two or more dwelling units or more than one rooming unit, extermination thereof shall be the responsibility of the owner. For dwellings containing two or more dwellings or rooming units where a pest infestation is found the property owner shall be allowed thirty (30) days to treat the pest infestation. If, after thirty (30) days, the infestation remains, the property owner shall carry the responsibility of having the infested units treated by a licensed pest management professional of a licensed pest management company. The owner shall be required to perform quarterly treatments for a period of one year from the date of first treatment after the initial thirty (30) days. The owner shall retain records from the licensed pest management professional and shall be made available to the Housing Inspector upon request at the one-year re-inspection. Failure to do so shall result in revocation of rental permit and all occupants will be vacated.
21. Owner to Let Clean Units. No owner shall permit occupancy of the vacant dwelling unit or rooming unit unless it is clean, sanitary, and fit for human occupancy.
22. Maintenance of Public Areas. Every owner or operator of a dwelling containing two or more dwelling units, or more than one rooming unit shall be responsible for maintaining, in a safe and sanitary condition, the shared public areas of the dwelling and premises thereof, unless there is a written agreement between the owner and occupant to the contrary.
23. Maintenance of Fencing. Every fence shall be kept in a reasonably good state of repair or shall be removed.
24. Garbage Disposal. Every owner of a dwelling shall supply adequate facilities for the disposal of garbage which are approved by the Code Enforcement Officer and are in compliance with this Code of Ordinances.
25. Occupancy Control. No owner or operator shall knowingly allow the occupancy of a dwelling, dwelling unit, or rooming unit to exceed the number of persons listed on the rental permit.
26. Lead Paint. In all pre-1978 buildings, no owner or operator shall allow painted surfaces to be peeling, chipping, chalking, cracking, damaged or otherwise separated from the substrate. This shall not be required of properties that have been certified lead-based paint free by a certified lead-based paint inspector.

158.08 RESPONSIBILITIES OF OCCUPANTS RELATING TO THE MAINTENANCE AND OCCUPANCY OF PREMISES.

1. Occupant Responsible for Controlled Area. Every occupant of a dwelling unit or rooming unit shall keep in a clean, safe, and sanitary condition that part of the dwelling, dwelling unit, rooming unit, or premises thereof he or she occupies and controls.
 - A. Every floor and floor covering shall be kept reasonably clean and sanitary.

- B. Every wall and ceiling shall be kept reasonably clean and free of dirt or greasy film.
 - C. No dwelling or the premises thereof shall be used for the storage or handling of refuse.
 - D. No dwelling or the premises thereof shall be used for the storage or handling of dangerous or hazardous materials.
2. Plumbing Fixtures. The occupants of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care, proper use, and proper operation thereof.
 3. Extermination of Pests. Every occupant of a single-family dwelling shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; every occupant of a dwelling containing more than one dwelling unit or rooming unit shall be responsible for such extermination within the unit occupied by him whenever said unit is the only one infested. Notwithstanding the foregoing provisions of this section, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonably rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner.
 4. Storage and Disposal of Garbage. Every occupant of a dwelling shall dispose of rubbish, garbage, and any other organic waste in a clean and sanitary manner by placing it in the supplied disposal facilities or storage containers required by this chapter.
 5. Use and Operation of Supplied Heating Facilities. Every occupant of a dwelling unit or rooming unit shall be responsible for the exercise of reasonable care, proper use, and proper operation of supplied heating facilities.
 6. Electrical Wiring. No temporary wiring or extension cords shall be used except extension cords which run directly from portable electric fixtures to convenience outlets and which do not lie beneath floor coverings or extend through doorways, transoms, or similar apertures and structural elements or attached thereto. The occupant shall not knowingly overload the circuitry of the dwelling unit or rooming unit.
 7. Supplied Facilities. Every occupant of a dwelling unit shall keep all supplied fixtures and facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care, proper use, and proper operation thereof. Occupants shall be responsible for maintaining batteries in all existing and required smoke detectors and/or carbon monoxide detectors.
 8. Occupancy Control. No occupant shall allow the occupancy of any dwelling unit or rooming unit within which he or she resides to exceed the number of persons listed on the rental permit nor shall they use a room for sleeping that does not meet egress requirements.
 9. Electrical Systems. Every occupant of a dwelling unit or rooming unit shall not block and shall keep free access to the unit's electrical systems.
 10. Early Warning Fire Protection. Every occupant of a dwelling unit or rooming unit shall not disassemble, remove, remove batteries, or otherwise tamper with any early warning fire protection device provided in a unit.

158.09 PENALTY. Any violation of the provisions of this chapter may constitute a municipal infraction and shall, upon conviction, be subject to penalties authorized under the City of Audubon Code of Ordinances including but not limited to, civil penalty Of \$100.00, order for

abatement, injunctive relief, and other alternative relief. Each day that a violation occurs or continues shall be deemed a separate offense. The City may also enforce the provisions of this Chapter by any other cause of action allowed by the City's Code of Ordinances or the State of Iowa Code.

CHAPTER 159 RESERVED

CHAPTER 160 FLOOD PLAIN MANAGEMENT

160.01 Definitions 160.02 Statutory Authority, Findings of Fact and Purpose 160.03 General Provisions 160.04 Administration 160.05 Establishment of Zoning (Overlay) Districts 160.06 Flooding (Overlay) District (FW)	160.07 Floodway Fringe (Overlay) District FF 160.08 General Floodplain (Overlay) district (GF) 160.09 Appointment and Duties of Board of Adjustment 160.10 Nonconforming Uses 160.11 Penalties for Violation 160.12 Amendments
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160.01 Definitions- Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. **APPURTENANT STRUCTURE** -A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. **BASE FLOOD** - The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the "100-year flood").
3. **BASE FLOOD ELEVATION (BFE)** - The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. **BASEMENT** -Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
5. **DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. **ENCLOSED AREA BELOW LOWEST FLOOR** - The floor of the lowest enclosed area in a building when fill the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.07 (2)(D)(1) of this Ordinance, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage, and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
 - D. The enclosed area is not a "basement" as defined in this section.
7. **EXISTING CONSTRUCTION** - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.
8. **EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** -A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the

pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

9. **EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

10. **FACTORY-BUILT HOME** - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. **FACTORY-BUILT HOME PARK OR SUBDIVISION** - A parcel or contiguous parcels of land divided into two or more factory- built home lots for sale or lease.

12. **FIVE HUNDRED (500) YEAR FLOOD** - A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

13. **FLOOD** - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

14. **FLOOD INSURANCE RATE MAP (FIRM)** - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

15. **FLOOD INSURANCE STUDY (FIS)** - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

16. **FLOODPLAIN** - Any land area susceptible to being inundated by water because of a flood.

17. **FLOODPLAIN MANAGEMENT** - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

18. **FLOODPROOFING** - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. **FLOODWAY** - The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

20. **FLOODWAY FRINGE** -Those portions of the Special Flood Hazard Area outside the floodway.

21. HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. HISTORIC STRUCTURE -Any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register.
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.
23. LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.
24. MAXIMUM DAMAGE POTENTIAL DEVELOPMENT - Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. MINOR PROJECTS - Small development activities (except for filling, grading, and excavating) valued at less than \$500.
26. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION -A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.
28. RECREATIONAL VEHICLE - A vehicle which is:
 - A. Built on a single chassis.
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection.
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarter for recreational, camping, travel, or seasonal use.

29. **ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** - 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 windowpanes.
- E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.

30. **SPECIAL FLOOD HAZARD AREA (SFHA)** - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, AI-30, AE, AH, AO, AR, and/or A99.

31. **START OF CONSTRUCTION** - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether that alteration affects the external dimensions of the building.

32. **STRUCTURE** - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.

33. **SUBSTANTIAL DAMAGE** - 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 (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

35. **SUBSTANTIAL IMPROVEMENT** - Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the first improvement of the structure, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.)

B. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

C. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

36. **VARIANCE** - A grant of relief by a community from the terms of the floodplain management regulations.

37. **VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.02 Statutory Authority, Findings of Fact and Purpose

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact

A. The flood hazard areas of the City of Audubon are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard 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.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. **Statement of Purpose**- It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Audubon and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 160.02 (2)(A) of this Ordinance with provisions designed to:

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 General Provisions

1. **Lands to Which Ordinance Apply-** The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of Audubon shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, and General Floodplain (Overlay) Districts, as established in CH 160.05.
2. **Establishment of Official Floodplain Zoning Map-** The Flood Insurance Rate Map (FIRM) for Audubon County and Incorporated Areas, City of Audubon, Panels 19009C0127D, 0129D, 0131D, 0133D, dated May 2, 2016, which were prepared as part of the Flood Insurance Study for Audubon County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.
3. **Rules for Interpretation of District Boundaries-** The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Director of Public Works shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Director of Public Works in the enforcement or administration of this Ordinance.
4. **Compliance-** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.
5. **Abrogation and Greater Restrictions-** It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
6. **Interpretation-**In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability- The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Audubon or any officer or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decision lawfully made there under.

8. Severability- If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

160.04 Administration

1. Appointment, Duties and Responsibilities of Local Official

A. The Director of Public Works is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

- (1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
- (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
- (3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
- (4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- (5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- (6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- (7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
- (8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.
- (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when development placed within the Floodway (Overlay) District results in any of the following:
 - (i) An increase in the Base Flood Elevations, or
 - (ii) Alteration to the floodway boundary

- (10) Maintain the accuracy of the community's Flood Insurance Rate Maps when development placed in Zones A, AE, AH, and AI-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
- (11) Maintain the accuracy of the community's Flood Insurance Rate Maps when development relocates or alters the channel.
- (12) Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.
- (13) Perform site inspections to ensure compliance with the standards of this Ordinance.
- (14) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit

A. Permit Required - A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials or equipment, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

C. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

160.05 Establishment of Zoning (Overlay) Districts

1. The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:
 - A. Floodway (Overlay) District (FW) - those areas identified as Floodway on the Official Floodplain Zoning Map;
 - B. Floodway Fringe (Overlay) District (FF) - those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway, and;
 - C. General Floodplain (Overlay) District (GF) - those areas identified as Zone A on the Official Floodplain Zoning Map.
2. The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

160.06 Floodway (Overlay) District (FW)

1. Permitted Uses- All development within the Floodway 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 District.
2. Performance Standards- All Floodway District uses allowed as a Permitted Use shall meet the following standards.
 - A. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - B. All development within the Floodway District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.

- C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- D. Structures, buildings, recreational vehicles, 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. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
- G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.07 Floodway Fringe (Overlay) District FF

- 1. Permitted Uses- All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.
- 2. Performance Standards- All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.
 - A. All development shall:
 - (1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
 - B. Residential structures - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits

of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

- (1) All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Non-residential structures - All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures.

- (1) Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- i A minimum of two (2) openings, with positioning on at least two (2) walls, 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.

- ii The bottom of all openings shall be no higher than one foot above grade.

- iii Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

- (2) Such areas shall be used solely for parking vehicles, building access and low damage potential storage. Where the distance between the floor and ceiling of the fully enclosed area below the "lowest floor" is (FIVE (5)) feet or more, the applicant shall be required to sign and record with the Audubon County Recorder a Non-Conversion

Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in (SECTION VII(2)(D)(I).)

(3) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(4) New and substantially improved structures shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation.

(5) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-built homes

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems

(1) On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodway Fringe (Overlay) District.

K. Accessory Structures to Residential Uses

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:

- i. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft.
- ii. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.
- iii. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- iv. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- v. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.
- vi. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

- vii. The structure's walls shall include openings that satisfy the provisions of 160.07 (2) {D}(1) of this Ordinance.
 - (2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
- L. Recreational Vehicles
 - (1) Recreational vehicles are exempt from the requirements of 160.07(2)(E) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied:
 - i. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - ii. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
 - (2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 160.07 (2)(E) of this Ordinance regarding anchoring and elevation of factory-built homes.
- M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
- N. Maximum Damage Potential Development - All new or substantially improved maximum damage potential development shall have the lowest floor {including basement} elevated a minimum of one {1} foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.08 General Floodplain (Overlay) District (GF)

1. Permitted Uses

- A. All development within the General Floodplain 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 General Floodplain District.

B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine {i} whether the land involved is either wholly or partly within the floodway or floodway fringe and {ii} the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

- (1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
- (2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2{2}, Iowa Administrative Code.

2. Performance Standards

A. All development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (SECTION VI).

B. All development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District (SECTION VII).

160.09 Appointment and Duties of Board of Adjustment

1. Appointment and Duties of Board of Adjustment -A Board of Adjustment is hereby established which shall hear and decide {i} appeals and {ii} requests for variances to the provisions of this ordinance and shall take any other action which is required of the Board.

2. Appeals - Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance - The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards:

A. Variances shall only be granted upon: {i} a showing of good and sufficient cause, {ii} a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause

fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that 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 such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment

A. Hearings. Upon the filing with the Board of Adjustment of an Appeal 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 or Variance within a reasonable time. In passing upon an Appeal, the Board may, so long as such action is in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a Variance, the Board shall consider such factors as contained in this section and all other relevant sections of this ordinance and may prescribe such conditions as contained in 160.09(4){8}{2}.

(1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

- i. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- ii. The danger that materials may be swept on to other land or downstream to the injury of others.

- iii. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - iv. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - v. The importance of the services provided by the proposed facility to the City.
 - vi. The requirements of the facility for a floodplain location.
 - vii. The availability of alternative locations not subject to flooding for the proposed use.
 - viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - ix. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - x. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - xi. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - xii. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - xiii. Such other factors which are relevant to the purpose of this Ordinance.
- (2) Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- i. Modification of waste disposal and water supply facilities.
 - ii. Limitation of periods of use and operation.
 - iii. Imposition of operational controls, sureties, and deed restrictions.
 - iv. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
 - v. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the

regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court - Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

160.10 Nonconforming Uses

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
 - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
 - C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.
2. Except as provided in 160.10(I)(B), any use which has been permitted as a Variance shall be considered a conforming use.

160.11 Penalties for Violation

1. Violations of the provisions of this Ordinance or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of Variances) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$(500.00 (FIVE HUNDRED DOLLARS) or imprisoned for not more than (30 {THIRTY) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevents the City of Audubon from taking such other lawful action as is necessary to prevent or remedy violation.

160.12 Amendments

1. The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

CHAPTER 161 COMMERCIAL PROPERTY MAINTENANCE CODE

161.01 Purpose

161.02 Administrative Provisions

161.03 Minimum Requirements

161.01 PURPOSE. The city's commercial property maintenance code requirements are intended to preserve the structural integrity of the building and property values while assuring a clean and attractive community.

161.02 ADMINISTRATIVE PROVISIONS.

1. The provisions of this section shall apply to all existing and future commercial property, including upper story residential use in first floor commercially used buildings.
2. If a section, subsection, sentence, clause, or phrase of this Chapter is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter
3. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Chapter shall be executed and performed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.
4. Violations of this Chapter may result in the issuance of civil municipal infraction citations and nuisance abatement action by the City with the resulting costs to be reported and certified to the County Treasurer and to be assessed against the property in the same manner as real estate taxes.

161.03 MINIMUM REQUIREMENTS. Every owner or operator shall improve and maintain all property under their control to comply with the following minimum requirements:

1. **Drainage.** All courts, yards, or other areas on the premises shall be properly graded to divert water away from any building or structure.
2. **Weeds.** All exterior property areas shall be kept free from weeds as required by this Chapter.
3. **Debris.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, and animal feces.
4. **Fences, walks, and parking areas.** Fences, other minor construction, walks, driveways, parking areas, and similar paved areas shall be properly maintained in a safe, sanitary, and substantial condition. Approved walks shall provide all-weather access to buildings or structures.
5. **Exterior surfaces.** Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of non-lead based paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.

6. Yard areas. Yard areas of real estate shall not be permitted to deteriorate or remain in a condition that is not in accord with the following: Yard areas shall be kept in a clean and sanitary condition, free from any accumulation of combustible or non-combustible materials (which are not used as an integral part of the authorized business carried out on the premises), debris, refuse, or overgrown vegetation.
7. General requirements. Every foundation, exterior wall, and roof shall be reasonably weather tight, watertight and rodentproof and shall be kept in proper repair and shall be capable of affording privacy. Any hazardous sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that it safely and properly removes the products of combustion from the building.
8. Windows and doors. Every window, exterior door, and basement hatchway shall be reasonably weather tight, watertight and rodentproof and kept in proper repair. All door and window hardware shall be installed and maintained in proper working condition. No building openings, except basement windows, in a building with any lot frontage on a public street may be boarded or covered in whole or in part. Doors and windows located on a facade of a building with lot frontage on a public street must be properly maintained, painted, and trimmed in the same manner as if the building was occupied. Where permitted by this Chapter, boarded up windows and doors must be a material that is compatible with the structure being protected and painted a color that is compatible with the building.
9. Outside stairs and porches. Every outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in proper condition and repair and shall present an attractive appearance. All exterior stairs and steps and every appurtenance thereto shall comply with the requirements specified in the International Existing Building Code as adopted by this Chapter.
10. Signs for businesses. Every sign for businesses no longer in operation shall be removed within 60 days after business use ceases or, if part of the building structure, painted over or otherwise obscured following the guidelines of subsection 5 of this Section.
11. Transfer of Ownership. Any owner of any property as to which an order or notice to repair, improve, demolish, or vacate has been issued shall not sell or enter into any agreement to sell or lease such property unless such order of the City has been disclosed and displayed to the prospective purchaser or lessee as required.

CHAPTER 162 VACANT BUILDING REGISTRATION AND INSPECTION

162.01 Purpose
 162.02 Definitions
 162.03 Vacant Building Registration
 162.04 Vacant Building Fees
 162.05 Exemptions
 162.06 Inspections

162.07 Emergency Abatement Procedure
 162.08 Costs of Emergency Repairs, Hearing and Appeal
 162.09 Penalties
 162.10 Alternative Procedures

162.01 PURPOSE. The purpose of this ordinance is to protect the public health, safety and welfare of Audubon by establishing a program for identification and registration of vacant commercial buildings, determining the responsibilities of owners of vacant commercial buildings and structures, and providing for administration, enforcement and penalties. It is further the purpose of this ordinance to establish standards and procedures to follow, and for that purpose the International Property Maintenance Code is herein adopted.

162.02 DEFINITIONS. When used in this chapter, the following terms shall have the meaning indicated:

1. Enforcement officer: The City Public Works Director or designee.
2. Commercial activity means having the objective of supplying commodities (goods and services) and ancillary business functions.
3. Commercial building means a building with more than fifty (50) percent of its floor space used for commercial activity. For the purposes of this section, floor space shall be designated as the area on the main or street level of the building.
4. Dangerous structure means a structure that is potentially hazardous to persons or property, including, but not limited to: (a) a structure that is in danger of partial or complete collapse; (b) a structure with any exterior parts that are loose or in danger of falling; (c) a structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, that are accessible and that are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads; or a structure that contains mold or mildew or is reasonably suspected of containing mold or mildew
5. Owner means the person, persons, or entity shown to be the owner or owners of record on the records of the Audubon County Register of Deeds, those identified as the owner or owners on a vacant building registration form, holder of an unrecorded contract for deed, a mortgagor or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lessor state therein. Any such person, persons, or entity, shall have a joint and several obligation for compliance with the provisions of this article.
6. Secured by other than normal means a building secured by means other than those used in the design of the building.
7. Unoccupied means a building in which there is a lack of physical presence on a regular basis for the purpose for which it was erected or a building unfit for occupancy due to failure to meet minimum standards set out by city ordinance for the issuance of a certificate of occupancy. The storage of products and materials does not constitute occupancy unless authorized by the zoning ordinance of the city.
8. "Illegally occupied" shall mean any occupancy in violation of city ordinance.
9. Unsecured means a building or portion of a building that is open to entry by unauthorized persons without the use of tools.

10. Vacant building means a building or portion of a building that:
- A. Lacks one or more utility for a period of six months;
 - B. Is in violation of building code and remains so for a period of six (6) months;
 - C. Unoccupied and secured;
 - D. Unoccupied and unsecured;
 - E. Unoccupied and secured by other than normal means;
 - F. Unoccupied and a dangerous structure;
 - G. Unoccupied and condemned;
 - H. Unoccupied and has city code violations;
 - I. Condemned and illegally occupied;
 - J. Illegally occupied.
 - K. Vacant building does not mean any building being constructed pursuant to a valid permit issued pursuant to the city building code, as long as progressing in accordance with timelines set forth in the permit.

162.03 VACANT BUILDING REGISTRATION.

1. The owner shall register with the city not later than 30 days after the effective date of this ordinance or not later than thirty (30) days after any commercial building in the city becomes a vacant building as defined in this article. The owner of the building will be required to pay a \$100.00 fee at the time of registration. This fee includes the initial inspection of the property by the city building inspector.
 - A. Lacks one or more utility for a period of six months;
 - B. Is in violation of building code and remains so for a period of six (6) months;
 - C. Unoccupied and secured;
 - D. Unoccupied and unsecured;
 - E. Unoccupied and secured by other than normal means.
2. In the event that a vacant building is not registered with the city within thirty (30) days of becoming vacant a \$200 registration fee will be required. This fee includes the initial inspection of the property by the city building inspector.
3. The registration shall be submitted on forms provided by the city. The forms shall include a plan for the continued care and upkeep of the property acceptable to the city and a timetable for returning the building to appropriate occupancy or use and/or for demolition of the building and such other information deemed necessary by the city.
4. All applicable laws and codes shall be complied with by the owner. The owner shall notify the city of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the city

5. The owner and any subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed. The building shall not be used for storage.

6. Any new owner(s) shall register or re-register the vacant building with the city within thirty (30) days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the city.

162.04 VACANT BUILDING FEES.

1. The owner of a vacant building shall pay an annual fee for the period the building remains a vacant building. The fee shall increase in the fourth year that the building is vacant at the following rate structure:

A. Years 1 Through 3. \$300.00 for buildings less than 3,000 sq. ft. as shown by the Audubon County Assessor's Office; and \$1,000.00 for buildings more than 3,000 sq. ft. as shown by the Audubon County Assessor's Office.

B. Years 3 and Beyond. \$3,000.00.

C. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 3 Municipal Infraction City of Audubon City Ordinances in lieu of criminal prosecution.

2. The first annual fee shall be paid not later than thirty (30) days after the building becomes vacant for one (1) year. If the fee is not paid within thirty (30) days of being due, the owner shall be in violation of this article.

3. The owner of a vacant building shall pay an annual fee for the period the building remains a vacant building. The fee shall increase in the fourth year that the building is vacant at the following rate structure:

A. Initial Registration Within 30 days of Vacancy (includes initial inspection). \$100.00.

B. Initial Registration After 30 days of Vacancy (includes initial inspection). \$200.00.

4. Once the initial inspection is completed and code violations are noted, the following fees shall apply:

A. Each Subsequent Inspection to Correct Noted Code Violations. \$100.00.

B. Failure to Correct Code Violations Within Timetable per Occurrence. \$200.00.

5. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.

6. Fees associated with this article shall be paid directly to the City of Audubon. In the event that fees are unpaid, the city attorney shall institute appropriate action

against the owner of the vacant building for the recovery of such fees and the costs of such action

162.05 EXEMPTIONS.

1. A building that has suffered fire damage shall be exempt from the registration requirement for ninety (90) days after the date of the fire if the property owner submits a request for exemption in writing to the city. This request shall include the following information supplied by the owner:
 - A. A description of the premises;
 - B. The names and addresses of the owner or owners;
 - C. The names and addresses of the current/former tenant; and
 - D. A statement of intent to repair and reoccupy the building in an expedient manner.
2. A vacant building that is actively listed and offered for sale shall be exempt from the annual vacant building fee subject to the following conditions:
 - A. The building is offered at a price not to exceed twenty-five (25) percent above the assessed value as documented by the Audubon County Assessor's Office.
 - B. The owner will be required to submit evidence of the assessed value of the building to the city and the asking price for the property thirty (30) days prior to the one-year anniversary of vacancy.
3. A vacant building that is offered for rent shall be exempt from the annual vacant building fee subject to the following conditions:
 - A. The amount of requested is comparable to other commercial buildings in the commercial district of the vacant building.
 - B. The owner of the vacant building is responsible to provide sufficient documentation to substantiate the request for exemption.

162.06 INSPECTIONS.

1. The city may inspect any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this article. Upon registration the vacant building will be inspected by the city building inspector and a report will be provided to the owner noting code deficiencies, if any. The owner will be required to make necessary repairs based upon a reasonable timetable to allow the property to become occupied. Subsequent inspections will be made by the city building inspector to ensure that repairs have been completed. Subsequent inspections will be billed to the owner based on the information contained in Section 4 – Vacant Building Fees.
2. Should a building remain vacant for twelve (12) consecutive months an inspection shall occur. An annual inspection shall be conducted on each twelve-month anniversary of the vacancy. The city reserves the right to inspect a vacant building at any reasonable time as conditions warrant.
3. The failure to correct the noted code deficiencies in a timely manner will result in a fee assessment noted in Section 4 - Vacant Building Fees.

162.07 EMERGENCY ABATEMENT PROCEDURE. When the City Public Works Director or designee determines that a public nuisance exists on a property and the public nuisance constitutes an imminent and compelling danger to health, safety or welfare of persons or property, the City Public Works Director or designee is authorized to abate or have abated the public nuisance without prior notice and opportunity of hearing. Administrative procedures for such emergency abatement shall be set forth by rule and approved by the city council. The costs of such action may be assessed against the property for collection in the same manner as property taxes. However, prior to such assessment, the city shall first seek abatement as a municipal infraction or other equitable action and provide the offending party and/or property owner an opportunity to appear and be heard.

162.08 COSTS OF EMERGENCY REPAIRS, HEARING AND APPEAL.

1. Upon receiving the notice to repair the building, the owner of the building, within the time stipulated, may in writing to the city clerk request a hearing before the city council, to present reasons why the building should not be repaired. The city council shall grant such hearing at the next regularly scheduled City Council meeting.
2. A written notice of the city council's decision following the hearing shall be sent to the property owner by certified mail. If the board of appeals rejects the appeal, the owner shall have ten (10) days from the sending of the decision to begin repair. If after the ten-day period the owner has not begun work, the city shall proceed to cause such work to be done; provided, the property owner may appeal such decision to the appropriate court for adjudication during which proceedings the decision of the city shall be stayed.
3. In case the owner of any building or structure shall fail, neglect or refuse to comply with notice by or on behalf of the city to repair or rehabilitate a building or structure which is unsafe, the city may proceed with the work specified in the notice to the property owner.
4. A statement of the cost of such work, including the cost of advertising and publishing of notices, shall be transmitted to the city council, which is authorized to levy the costs as a special assessment against the land. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments.

162.09 PENALTIES. Any person violating any provision of this article or providing false information to the city shall be punished as provided in Chapter 3 of this Code as a municipal violation.

162.10 ALTERNATIVE PROCEDURES. Nothing in this article shall be deemed to abolish or impair existing remedies of the city authorized by this Code.

CHAPTER 163 CERTIFICATE OF OCCUPANCY

163.01 Use or Occupancy

163.02 Change in Use

163.03 Certificate Issued

163.04 Temporary Certificate

163.05 Posting

163.06 Revocation

163.07 Certificate Required

163.01 USE OR OCCUPANCY. Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

163.02 CHANGE IN USE. Changes in the character or use of a building shall not be made except as specified in the building code.

163.03 CERTIFICATE ISSUED. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws which are enforced by the code enforcement agency, the building official shall issue a certificate of occupancy which shall contain the following:

1. The building permit number.
2. The address of the building.
3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of this code for the group and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.

163.04 TEMPORARY CERTIFICATE. If the building official finds that substantial hazard will not result from occupancy of a building or portion thereof before the same is completed, a temporary certificate of occupancy for the use of a portion of portions of a building or structure may be issued prior to the completion of the entire building or structure.

163.05 POSTING. The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the building official.

163.06 REVOCATION. The building official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure of portion thereof is in violation of an ordinance, regulation or the provisions of this code.

163.07 CERTIFICATE REQUIRED. No commercial property within the Audubon City limits or within two miles thereof shall be occupied without a current Certificate of Occupancy on file with the City of Audubon.

CHAPTER 164 RESERVED

CHAPTER 165 ZONING REGULATIONS – GENERAL PROVISIONS

165.01 Title
165.02 Purpose

165.03 Definitions

165.01 TITLE. This chapter shall be known and may be cited as the Audubon Zoning Code.

165.02 PURPOSE. The purpose of this chapter is to promote the health, safety, and general welfare in the City by regulating and restricting the location, construction, and the use of land and for said purposes dividing the City into districts.

(Code of Iowa, Sec. 414.1, 414.2 and 414.3)

165.03 DEFINITIONS. For the purpose of this chapter certain terms and words are hereby defined:

1. “Accessory use” means a use customarily incidental to the principal use of the lot.
2. “Alley” means a narrow service way providing a secondary means of access to abutting properties.
3. “Alterations” means a change or rearrangement in the structural parts or in the existing facilities, or an enlargement of a building or structure.
4. “Board” means the Board of Adjustment of the City of Audubon, Iowa.
5. “Boarding house” means any private dwelling in which three (3) or more persons either individually or as families are housed or lodged for hire with or without meals, and in which no transients are accommodated. A rooming house is deemed a boarding house.
6. “Building” means any roofed-over structure intended for shelter.
7. “Building, accessory” means a subordinate building, the use of which is incidental to that of a main building on the same lot.
8. “Building height” means the vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
9. “Building, main” means a building devoted to the principal use of the lot on which it is located.
10. “Commercial use” means any land or building designed or designated to be used for commercial purposes, which shall include such land or buildings used for retail sales and office use.
11. “Commission” means the Planning and Zoning Commission of the City of Audubon, Iowa.
12. “Court” means an open space on the same lot with a building bounded on two (2) or more sides by the walls of such building.
13. “Court, inner” means a court bounded on all sides by exterior wall of a building or by exterior walls and lot lines on which walls are allowable.
14. “Court, outer” means any court other than an inner court.
15. “Coverage” means the percentage of lot area covered by buildings.

16. “Dwelling” means any building used primarily as living quarters for one or more families.
17. “Dwelling, single-family” means a detached building used primarily for living quarters accommodating only a single family.
18. “Dwelling, two-family” means a detached building used primarily for living quarters accommodating two families.
19. “Dwelling, multiple-family” means a building or portion thereof accommodating three or more families living independently of each other.
20. “Family” means one or more persons occupying a premises and living as a non-profit housekeeping unit.
21. “Farm” means any parcel of land containing at least ten (10) acres and which is used for gain in the production of agricultural products.
22. “Filling station” means any area of land, including structures thereon, that is primarily used or designed to be used for the supply of gasoline or oil or other fuel for use in motor vehicles and which may include facilities used or designed to be used for parking, greasing, washing, spraying, or other cleaning and servicing of such motor vehicles.
23. “Floor area” means the sum of the gross horizontal areas of the several floors of a building excluding areas not normally considered rentable areas.
24. “Garage, private” means an accessory building for the storage of one or more motor vehicles, provided that no business, occupation, or service is conducted for profit therein or space therein for more than one car is leased to a nonresident of the premises.
25. “Garage, public” means any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.
26. “Home occupation” means a profession or an occupation which:
 - A. Is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.
 - B. Occupies no more than 50% of the floor area of one story of the dwelling.
 - C. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare.
 - D. Employs not more than one person outside the immediate family residing on the premises.
 - E. Offers no articles for sale except such as may be produced on the premises or comprises no more than 10% of the gross proceeds from the occupation.
 - F. Off-street parking space is provided for each 100 square feet of area used for such profession or occupation.
 - G. Is carried on wholly within the dwelling on the premises with no exterior storage, no exterior display, and no exterior advertising except a small name plate no larger than one square foot.

27. "Hospital" means a building used for diagnosis, treatment, or other care of human ailments.
28. "Hotel" means a building containing rooms intended or designed to be occupied as the more or less temporary abiding place of individuals and where no provision is made for cooking in any individual room.
29. "Hotel, apartment" means a dwelling primarily occupied by permanent guests and not transients, which may include restaurants, newsstands, and other accessory services primarily for servicing its occupants and only incidental to the public.
30. "Junk yard" means a lot, land, or portion thereof used primarily for the collecting, storage, and sale of junk, including paper, rags, scrap metal, or other discarded material, or the dismantling, demolition, sale, or abandonment of automobiles or other vehicles or machinery or parts thereof.
31. "Lot" means a parcel or plat of land considered as a unit occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under this chapter.
32. "Lot, corner" means a lot at the junction of and fronting on two or more intersecting streets.
33. "Lot, depth of" means a horizontal distance between the front and rear lot lines.
34. "Lot, width of" means the width measured at right angles to its depth.
35. "Lot lines" means any line dividing one lot from another.
36. "Mobile home" means a vehicle used or constructed to be used for living or sleeping purposes and designed for being conveyed upon the public streets and highways.
37. "Mobile home, independent" means a mobile home having a flush toilet and a bath or shower.
38. "Mobile home park" means any park, lot, or site where mobile homes, as herein defined, are located and maintained or intended to be located and maintained, whether for or without compensation for such accommodation.
39. "Mobile home space" means a plot of ground within a mobile home park designated as the location for only one mobile home and not used for any other purposes whatsoever other than the customary accessory uses thereof.
40. "Structure" means anything constructed or erected the use of which requires location on the ground or attached to something having location on the ground.
41. "Use" means the specific purpose for which land or a building is designed, intended, or for which it is or may be occupied or maintained.
42. "Yard" means an unoccupied space open to the sky, on the same lot with a building.
43. "Yard, front" means a yard between the front line of the building and the front line of the lot and extending the full width of the lot.
44. "Yard, rear" means a yard between the rear line of the building and the rear lot lines and extending the full width of the lot.

45. “Yard, side” means a yard between the building and the side lines of the lot and extending from the front yard to the rear yard.

CHAPTER 166 ZONING CODE – DISTRICT REGULATIONS

166.01 Districts Established	166.09 R-1, One-Family Residential District
166.02 Official Zoning Map	166.10 R-2, One-Family Residential District
166.03 Identification and Certification of Official Zoning Map	166.11 R-3, Two-Family Residential District
166.04 Recording Changes on Official Zoning Map	166.12 R-4 Multiple-Family Residential District
166.05 Symbols for Identifying Zoning Districts	166.13 B-1 Central Business District
166.06 Interpretation of District Boundaries	166.14 B-2 Local Business District
166.07 Application of Regulations	166.15 I-1 Restricted Industrial District
166.08 A-1, Agriculture District	166.16 I-2 Light Industrial District
	166.17 I-3 Heavy Industrial District

166.01 DISTRICTS ESTABLISHED. For the purpose of promoting the public health, safety, morals, and general welfare of the community, the City is hereby divided into the following types of districts:

(Code of Iowa, Sec. 414.2)

1. Agriculture
2. One-Family Residential District (1st District)
3. One-Family Residential District (2nd District)
4. Two-Family Residential District
5. Multiple-Family Residential District
6. Central Business District
7. Local Business District
8. Restricted Industrial District
9. Light Industrial District
10. Heavy Industrial District

166.02 OFFICIAL ZONING MAP. The City is hereby divided into zones, or districts, as shown on the official zoning map, which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this chapter.

(Code of Iowa, Sec. 414.2)

166.03 IDENTIFICATION AND CERTIFICATION OF OFFICIAL ZONING MAP. The official zoning map shall be identified by the signature of the Mayor, attested by the Clerk, and bearing the seal of the City under the following words: “This to certify that this is the Official Zoning Map referred to in Section 3 of Ordinance Number 355 of the City of Audubon, Iowa, together with the date of the adoption of Ordinance Number 355.

(Code of Iowa, 1975, Sec. 414.4)

166.04 RECORDING CHANGES ON OFFICIAL ZONING MAP. If, in accordance with the provisions of this chapter and Chapter 414, *Code of Iowa*, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by the Commission, together with an entry on the official zoning map as follows: “On (date), (change or changes) were made in the official zoning map: (brief description of nature of change), which entry shall be signed by the Mayor and attested by the City Clerk.” The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon the official zoning map. No amendment to this chapter which involves matters portrayed

on the official zoning map shall become effective until after such change and entry has been made on such map.

(Code of Iowa, Sec. 414.4)

166.05 SYMBOLS FOR IDENTIFYING ZONING DISTRICTS. For the purpose of clearly defining the various use districts, the following symbols have been used:

1. A-1 Agriculture District
2. R-1 One-Family Residential District (1st District)
3. R-2 One-Family Residential District (2nd District)
4. R-3 Two-Family Residential District
5. R-4 Multiple-Family Residential District
6. B-1 Central Business District
7. B-2 Local Business District
8. I-1 Restricted Industrial District
9. I-2 Light Industrial District
10. I-3 Heavy Industrial District
11. The boundaries of these districts shall be determined by the extent of coverage of the pattern for the respective district.

(Code of Iowa, Sec. 414.2)

166.06 INTERPRETATION OF DISTRICT BOUNDARIES. The following rules shall apply where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map:

(Code of Iowa, Sec. 414.4)

1. Streets and Lot Lines. Where district boundaries are indicated as approximately following street lines or lot lines, such street lines or lot lines shall be construed to be said boundaries.
2. More Restrictive District Boundary Prevails. When there is a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Commission.

166.07 APPLICATION OF REGULATIONS. Except as hereinafter provided:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Conformity with District Use Regulations. No land shall be used and no building shall be erected or structurally altered, nor shall any building or premises be used for any purpose unless in conformity with the regulations herein specified for the district in which it is located.
2. Conformity with Yard and Open Space Requirements. No lot upon which a building has been erected shall be so reduced in area that the yards or open spaces shall be smaller than those prescribed by this chapter, nor shall a part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter be included as a part of a yard or other open space similarly required for another building.

3. Conformity with Other Requirements. No building shall be erected or altered:
 - A. To have narrower or smaller rear yards, front yards, side yards, or courts;
 - B. To exceed the specified height;
 - C. To occupy a greater percentage of lot area; or
 - D. To accommodate or house a greater number of families; than is specified herein for the district in which such building is located.
4. Classification of Newly Annexed Territory. All territory which may hereafter be annexed to the City shall automatically be classed the same as the adjoining properties to the annexed territory unless said adjoining property does not have identical classifications, in which case the classification of the annexed territory shall be that as designated by the Council.

166.08 A-1, AGRICULTURE DISTRICT. The following regulations shall apply in all A-1 Agriculture Districts:
(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the A-1 District.
 - A. Agriculture and horticulture uses, provided that there are no uses which are offensive in odor or which destroy the beauty of the landscape by their presence. Such offensive uses being those which include the storage of live stock or commercial poultry farms.
 - B. Public and private riding academies; provided however, that no stable may be located nearer than one-half mile from and adjacent to a residential district.
 - C. Reservoirs, wells, towers, filter beds, refuse dumps, sewage treatment plants, and water supply plants.
 - D. Churches, schools, and hospital.
 - E. Publicly owned and operated libraries, museums, parks, playgrounds, fire stations and community buildings.
 - F. Publicly and privately owned golf courses, tennis courts, outdoor theaters, amusement parks, race tracks and fairgrounds.
 - G. Accessory buildings and uses customarily incidental to any of the above uses.
 - H. Airports, cemeteries, and natural production uses are permitted, subject to a permit approved by the Zoning Administrator and further subject to such conditions, restrictions, and safeguards as may be deemed necessary by the Zoning Administrator.
2. Building Height Limit. No building shall exceed two and one-half stories or 35 feet.
3. Required Lot Area. A lot shall not be less than 20,000 square feet and a lot width of not less than 120 feet is required.
4. Percentage of Lot Coverage. All buildings, including accessory buildings, shall not cover more than 30 percent of the area of the lot.

5. Yards Required. Each lot shall have front, side, and rear yards not less than the following depths or widths:
 - A. Front yard depth: 50 feet.
 - B. Rear yard depth: 25 feet.
 - C. Side yard width: 20 feet.
 - D. The side yard width of 20 feet may be reduced to a side yard width of 10 feet for any lot having an average width of less than 80 feet, which was a lot of record at the time of adoption of these regulations, provided that the width of the two side yards on such lot shall not be less than 30 percent of the lot width.
6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.09 R-1, ONE-FAMILY RESIDENTIAL DISTRICT. The following regulations shall apply in all R-1, One-Family Residential Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the R-1 District:
 - A. One-Family Dwelling.
 - B. Churches or similar places of worship.
 - C. Elementary schools, high schools, and institutions for higher education.
 - D. Publicly owned and operated libraries, museums, parks, playgrounds, fire stations, and community buildings.
 - E. Golf courses. Country clubs and non-commercial recreational uses.
 - F. Agriculture, when conducted exclusively for the use of the occupants of the dwelling located on the premises, provided there are no agriculture uses present which are offensive in odor or which destroy the character of the landscape.
 - G. Any use allowed and approved by the Board of Adjustment as a home occupation, as defined in Section 165.03 of this Code of Ordinances.
 - H. Public utility structures necessary for the service of the area.
2. Building Weight Limits. No building shall exceed two and one-half stories or 35 feet.
3. Required Lot Area. A lot shall not be less than 8,500 square feet, and a lot width of 80 feet is required.
4. Percentage of Lot Coverage. All buildings, including accessory buildings, shall not cover more than 30 percent of the area of the lot.
5. Yards Required. Each lot shall have front, side and rear yards of not less than the following depths or widths:
 - A. Front yard depth – 35 feet.
 - B. Rear yard depth – 25 feet.

- C. Side yard width - not less than 8 feet but the sum of the two side yards shall not be less than 20 feet.
- 6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.10 R-2, ONE-FAMILY RESIDENTIAL DISTRICT.

(Code of Iowa, Sec. 414.1 and 414.2)

- 1. Uses Permitted. Any use permitted in the R-1 One-Family Residential Districts.
- 2. Building Height Limit. No building shall exceed two and one-half stories or 35 feet.
- 3. Required Lot Area. A lot shall not be less than 6,000 square feet and a lot width of not less than 50 feet is required.
- 4. Percentage of Lot Coverage. All buildings including accessory buildings shall not cover more than 30 percent of the area of the lot.
- 5. Yards Required. Each lot shall have front, side and rear yards not less than the depth or width as follows:
 - A. Front yard depth – 25 feet.
 - B. Rear yard depth – 25 feet.
 - C. Side yard width – 6 feet but the sum of the two side yards shall not be less than 15 feet.
- 6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.11 R-3, TWO-FAMILY RESIDENTIAL DISTRICT. The following regulations shall apply in all R-3 Two-Family Residential Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

- 1. Uses Permitted. The following uses are permitted in the R-3 District:
 - A. Any use permitted in the R-1 One-Family Residential Districts.
 - B. Two-family dwellings.
 - C. An existing dwelling may be converted into a two-family dwelling provided that any exterior stairway to serve the second floor is placed in the rear of the structure to be converted.
- 2. Building Height Limit. No building shall exceed two and one-half stories or 35 feet.
- 3. Required Lot Area. Each lot shall have an area of not less than 6,000 square feet with a minimum lot width of 50 feet.
- 4. Yards Required. Each lot shall have front, side, and rear yards not less than those specified for the R-2 One-Family Residential Districts.
- 5. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.12 R-4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT. The following regulations shall apply in all R-4 Multiple-Family Residential Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the R-4 District.
 - A. Any use permitted in the R-3, Two-Family Residential Districts.
 - B. Multiple-Family dwellings.
 - C. Tourist homes, rooming and boarding houses.
 - D. Clubs and lodges, excepting such clubs or lodges the chief activity of which is a service customarily carried on as a business or primarily for gain.
2. Building Height Limit. No building shall exceed four and one-half stories, or 55 feet.
3. Required Lot Area. Each lot shall have an area and width of not less than the area and width for the R-3, Two-Family Residential Districts, provided, however, that each multiple-family dwelling shall be located on a lot having not less than 1,500 square feet for each family housed therein.
4. Percentage of Lot Coverage. All buildings, including accessory buildings, shall not cover more than 50 percent of the area of the lot.
5. Yards Required. Each lot shall have front, side, and rear yards not less than the following depths or widths:
 - A. Front yard depth: 25 feet.
 - B. Rear yard depth: 25 feet and equal in depth to the height of the building.
 - C. Side yards: 5 feet, but each side yard shall be equal to one-fourth of the height of the building.
6. Required Court Dimensions. The following court dimensions are required:
 - A. Outer Court. The width of an outer court containing windows shall not be less than the full height of the court.
 - B. Inner Court. The least dimension of an inner court shall be not less than the full height of such court.
7. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.13 B-1 CENTRAL BUSINESS DISTRICT. The following regulations shall apply in the B-1 Central Business District.

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the B-1 District.
 - A. Any use permitted in the R-4, Multiple-Family Residential Districts, provided, however, that any building which is used for residential purposes shall conform to the district regulations for the R-4, Multiple-Family Residential District.
 - B. Retail stores and shops.

- C. Banks, offices, theaters, bowling alleys, restaurants, hotels, and similar community services.
 - D. Automobile repair shops and filling stations, subject to the following provisions.
 - (1) No repair work is performed out of doors.
 - (2) Pumps, lubricating or other devices are located at least 20 feet from any street line.
 - (3) All fuel, oil or similar substances are stored at least 35 feet from any street or lot line.
 - (4) All automobile parts, dismantled vehicles, and similar articles are stored within a building.
 - E. Baking, confectionary, dressmaking, dyeing, laundry, printing, tailoring, upholstery and similar establishments or business of a similar nature and no more objectionable characteristics subject to the following provisions:
 - (1) All goods or products manufactured or processed shall be sold at retail on the premises.
 - (2) All such manufacturing or processing shall be done on the premises, and not more than five (5) persons shall be so employed at any one time.
 - F. Barber, shoeshine, beauty parlor and other personal services.
 - G. Caterer, undertaker.
 - H. Telegraph, telephone, and express offices.
 - I. Railway or bus passenger station.
 - J. Laundry and cleaning depots.
 - K. Parking lots and used car lots. Other uses similar in character to those enumerated above, and which, in the opinion of the Zoning Administrator, will not be injurious to the district.
(Code of Iowa, Sec. 414.4)
 - L. Outdoor advertising signs but only when attached to or made part of the commercial structure. A projecting sign shall not exceed 50 square feet in area for each frontage.
- 2. Building Height Limit. No building shall exceed six stories or 75 feet in height.
 - 3. Required Lot Area. When the lot is not used for residential purposes, there is no required lot area.
 - 4. Percentage of Lot Coverage. When the lot is not used for residential purposes, the entire lot may be covered, except as hereinafter specified.
 - 5. Yards Required. Each lot shall have front, side and rear yards of not less than the following depths or widths:
 - A. Front yard depth: 20 feet.
 - B. Rear yard depth: 20 feet.
 - C. Side yard width: 5 feet.
 - 6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.14 B-2 LOCAL BUSINESS DISTRICT. The following regulations shall apply in all B-2 Local Business Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the B-2 District.
 - A. Any use permitted in the B-1, Central Business District.
 - B. Motels.
2. Building Height Limit. No building shall exceed two and one-half stories or 35 feet.
3. Required Lot Area. When the lot is not used for residential purposes, there is no required lot area.
4. Percentage of Lot Coverage. All buildings including accessory buildings shall not cover more than 50 percent of the area of the lot.
5. Yards Required. Each lot shall have front, side and rear yards of not less than the following depths or widths:
 - A. Front yard depth: 20 feet.
 - B. Rear yard depth: 20 feet.
 - C. Side yard width: 5 feet.
6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.15 I-1, RESTRICTED INDUSTRIAL DISTRICT. The following regulations shall apply in all I-1, Restricted Industrial Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the I-1 District:
 - A. No residential use is permitted.
 - B. Wholesaling, manufacturing, jobbing, warehousing, or business of a similar nature subject to the regulations as hereinafter specified.
 - C. Any use which may be or may become a nuisance or annoyance by reason of excessive emission of noise, smoke, fumes, odors, vibrations, glare, or similar substances and conditions or by reason of unsightliness shall be prohibited. Standardized measurements taken by standardized methods and equipment shall be used as proof of noncompliance and the cost of said measurements shall be borne by the occupant.
 - D. The storage of all materials and equipment used in connection with the development shall be enclosed within buildings.
 - E. No building or premises shall be used, erected, or altered until and unless a permit for the contemplated development has been secured from the Zoning Administrator. There shall have been filed with the Zoning Administrator a written application for said permit. Said application shall be accompanied with the following information.

(Code of Iowa, Sec. 414.4)

- (1) The location of present and proposed buildings, parking lots, driveways, and other necessary facilities indicated on a plot plan.

- (2) Preliminary architectural plans for the proposed building or buildings.
 - (3) A written description indicating the effects of the industrial operations in producing problems of glare, noise, odor, sewage, fire hazards, air pollution, or water pollution or of excessive traffic congestion or other factors detrimental to the safety, health and welfare of the community.
 - (4) Any other information the Zoning Administrator may deem necessary to adequately consider the cost of providing municipal services to the area and the effect the proposed uses may have upon the surrounding properties.
2. Building Height Limits. No building shall exceed two and one-half stories or 45 feet in height.
3. Required Lot Area. Individual building sites shall be of such size that all space requirements of this chapter are satisfied and so that the development will have architectural unity.
4. Percentage of Lot Coverage. All buildings, including accessory buildings, shall not cover more than 30 percent of the area of the lot.
5. Yards Required. Each lot shall have front, side and rear yards not less than the following depths and widths:
 - A. Front yard depth: 60 feet. Required front yards shall be landscaped and maintained to provide an attractive setting for the building.
 - B. Rear yard depth: 15 feet. Where the rear yards abut a lot in a residential district, said rear lot depth shall be 30 feet. Required rear yards shall be planned and maintained to provide a sightly and well kept condition.
 - C. Side yard width: 10 feet. Where the side yard abuts a lot in a residential district, said side yard width shall be 30 feet. Required side yards shall be planned and maintained to provide a sightly and well kept condition.

166.16 I-2, LIGHT INDUSTRIAL DISTRICT. The following regulations shall apply in all I-2 Light Industrial Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. The following uses are permitted in the I-2 District.
 - A. Any use permitted in the B-2 Local Business District, but not residential uses or motels.
 - B. Wholesale, storage and warehouse facilities.
 - C. Lumber, wood, feed, or other similar storage yards, but not salvage yards, coal yards, stock yards or junk yards.
 - D. Uses of a light manufacturing nature, employing electricity or other unobjectionable motive power, and free from any objectionable odors, glare, fumes, dirt, vibration, or noise.
2. Building Height Limit. No building shall exceed six stories or 75 feet in height.
3. Required Lot Area. When the lot is not used for residential purposes, there is no required lot area.

4. Percentage of Lot Coverage. When the lot is not used for residential purposes, the entire lot may be covered except as hereinafter specified.
5. Yard Requirements. Each lot shall have front, side, and rear yards of not less than the following depths or width:
 - A. Front yard depth: 20 feet.
 - B. Rear yard depth: 20 feet.
 - C. Side yard width: 5 feet.
6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

166.17 I-3, HEAVY INDUSTRIAL DISTRICT. The following regulations shall apply to all I-3 Heavy Industrial Districts:

(Code of Iowa, Sec. 414.1 and 414.2)

1. Uses Permitted. All uses not otherwise prohibited by law, except no residential use is permitted.
2. Uses Prohibited. All uses of land, buildings and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse, matter, odor, gas, fumes, noise, vibrations, or similar substances or conditions, provided, however, that any uses may be permitted if approved by the Zoning Administrator and subject to the securing of a permit therefor and to such restrictions, conditions and safeguards as may be deemed necessary by said Zoning Administrator for the purpose of protecting the health, safety, morals or the general welfare of the City.

(Code of Iowa, Sec. 414.4)

3. Building Height Limit. No building shall exceed six stories or 75 feet in height.
4. Percentage of Lot Coverage. The entire lot may be covered, except as hereinafter specified.
5. Yard Requirements. Each lot shall have front, side, and rear yards of not less than the following depths or width:
 - A. Front yard depth: 20 feet.
 - B. Rear yard depth: 20 feet.
 - C. Side yard width: 5 feet.
6. Off-Street Parking and Supplementary Regulations. See Chapter 167 for off-street parking and supplementary regulations.

EDITOR'S NOTE

The following ordinances have been passed as amendments to the Official Zoning Map of the City and by this reference are made a part hereof.

ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
457	January 11, 1978		

458	January 11, 1978		
459	January 11, 1978		
460	January 11, 1978		
461	January 11, 1978		
462	January 11, 1978		
471	May 22, 1978		
476	October 11, 1978		
493	October 10, 1979		
504	July 28, 1980		
510	February 23, 1981		
518	May 3, 1982		
534	January 9, 1984		
580	May 29, 1990		
604	October 11, 1993		
609	February 14, 1994		
614	August 22, 1994		
616	March 27, 1995		
622	November 27, 1995		
640	March 9, 1999		
655	January 14, 2002		
660	August 26, 2002		
667	July 12, 2004		
718	September 14, 2015		
738	May 22, 2017		

CHAPTER 167 ZONING CODE – SUPPLEMENTARY REGULATIONS

167.01 Supplementary Regulations

167.02 Unit Plan Regulations

167.01 SUPPLEMENTARY REGULATIONS. The provisions of this chapter shall be subject to such additions or modifications as herein provided by the following supplementary regulations:

1. Stripping of Top Soil. No person shall remove top soil for use other than on the premises from which the same is taken.

(Code of Iowa, Sec. 414.1)

2. Height and Open Space. In any district, any main building may be erected to a height in excess of that specified for the district, provided that, for each foot of additional height, the front, side, and rear yards are each increased by one foot.

(Code of Iowa, Sec. 414.1)

3. Height Exceptions. The height limitations of this chapter do not apply to church spires, towers, penthouses, and grain elevators; or to chimneys, ventilators, skylights, water tanks, and similar features usually carried above the roof level.

(Code of Iowa, Sec. 414.1)

4. Airport Height Exceptions. In any district no structure shall be erected which exceeds the maximum heights permissible under the rules of the Federal Aeronautics Administration; and further provided, no structure shall be erected within 750 feet of the projected centerline of a runway for a distance of 500 feet from the boundary of the airport.

(Code of Iowa, Sec. 414.1)

5. Dwelling on Small Lots. Except on a lot in an industrial district, a dwelling may be erected on any lot separately owned or under contract of sale containing, at the time of the passage of these regulations, an area or a width smaller than that required for a one-family dwelling.

(Code of Iowa, Sec. 414.1)

6. Supplemental Yard and Lot Requirements. The following are supplemental yard and lot requirements:

- A. In any residence district each dwelling hereafter erected shall have a front yard equal in depth to the average depth of the front yards of the lots immediately adjacent but no front yard shall be less than 15 feet, nor shall any front yard have a greater depth than 35 feet.

- B. Where a lot in a business or industrial district abuts a lot in a residential or agriculture district, there shall be provided on the business or industrial lot a front yard equal in depth to one-half the required front yard depth of the residential or agriculture district.

(Code of Iowa, Sec. 414.1 and 414.2)

- C. Where a lot in a business or industrial district abuts a lot in a residential or agriculture district, there shall be provided on the business or industrial lot a side yard equal in width to that required in the residential or agriculture district.

(Code of Iowa, Sec. 414.1 and 414.2)

- D. On every corner lot in a residential district there shall be provided on the side street a side yard equal in depth to one-half the required front yard

depth, except that in no event shall a structure project beyond either the front yard required by this chapter on the nearest and adjacent lots in either direction, or the front yard actually existing on said lots, whichever is less.

(Code of Iowa, Sec. 414.1 and 414.2)

E. A paved terrace or an unenclosed porch, even though roofed over, shall not be considered in the determination of yard sizes or lot coverage, provided, however, that such terrace or porch shall not be nearer than four feet at any point to any lot line.

(Code of Iowa, Sec. 414.1)

F. Any enclosed porch shall be considered a part of the building in the determination of the size of yard or lot coverage.

(Code of Iowa, Sec. 414.1)

G. The space in any required yard shall be open and unobstructed to the sky, except for ordinary projection of windowsills, belt courses, cornices, eaves, and other architectural features, provided, however, that such features shall not project more than two feet into any required yard.

(Code of Iowa, Sec. 414.1)

H. Open fire escapes may extend into any required yard not more than three and one-half feet.

(Code of Iowa, Sec. 414.1)

I. Accessory buildings, including garages, unless within or attached to the dwelling, shall be located not less than 60 feet from the front line in all residential districts. Said buildings shall be located not less than two feet to the side or rear lot line and not nearer than six feet to the main building.

(Code of Iowa, Sec. 414.1)

7. Off-Street Parking. In order to reduce congestion in the streets the following off-street parking spaces shall be provided and maintained by the owner of the property for each building which, after the effective date of these regulations, is erected, enlarged, or altered for use for any of the following purposes:

(Code of Iowa, Sec. 414.1 and 414.2)

A. Dwellings: at least one parking space for each dwelling unit in the building or buildings.

B. Auditorium, stadium, theater or other places of public assembly; establishments for the sale and consumption on the premises of food or beverage: at least one parking space for every five seats provided for patrons.

C. Dance halls, skating rinks and assembly halls without fixed seats: at least one parking space for every 75 square feet of floor area used for dancing, skating or assembly.

D. Hotels: at least one parking space for every two guest sleeping rooms.

E. Retail stores, office buildings, clinics: at least one parking space for every 500 square feet of floor area.

F. Shops, wholesale distributors; industrial or manufacturing establishments: at least one parking space for every 1,000 square feet of floor area or for each three employees on the largest shift.

G. All required parking spaces shall be on the same lot with the building, except that if the Board determines that it is impractical to provide parking on the same lot, said Board may permit the parking spaces to be on any lot within 500 feet of the building.

8. Off-Street Parking in Residential Districts. Traversing with or the parking of any vehicle or trailer is prohibited on the area between the right-of-way line of any platted or improved City street and a line which includes the front of any residential and/or attached garage structure on the premises and is thence extended outward to the side from the front corners of such structure. On corner lots this prohibition shall also include that area between the right-of-way line of any platted or improved City street and a line which includes the side of the residential and/or attached garage structure and is thence extended outward to the front from the front corner and outward to the rear from the rear corner of such structure. The following exceptions shall apply and traversing/parking shall be allowed:

A. On any hard surfaced driveway or parking area existing on the effective date of the ordinance codified in this section.[†]

B. On any hard surfaced driveway or parking area pre-approved in writing (permit) and constructed after said ordinance effective date. Pre-approval shall require an application, accompanied by a \$5.00 application fee, which includes written detailed plans of the proposed driveway/parking area to the Zoning Administrator (or successor position). The application shall be processed in the same manner as a building permit. Said plans shall include the location, dimensions, thickness, and material type of the proposed improvement. Only concrete, asphalt, similar paving material, gravel, rock, or millings shall be used. Any part of the driveway located on City right-of-way shall be concrete or asphalt.

C. Incidental parking on the areas above described which does not exceed two hours and does not damage any non-hard-surfaced area shall be allowed. Upon the written request of the Council, improvements constructed which are not pre-approved (permit) and/or do not comply with this section shall be immediately removed with all costs of removal paid by the premises owner.

167.02 UNIT PLAN REGULATIONS. The purpose and intent of this section is to permit diversification in the development of the City without in any way jeopardizing or reducing zoning standards which promote the public safety, convenience, health, general welfare, as well as preserve personal and property rights. For this purpose the provisions of this chapter shall be subject to such exceptions as provided by the following unit plan regulations:

(Code of Iowa, Sec. 414.3)

1. Plan Review and Approval – Residential. The owner of any tract of land comprising an area of not less than 15 acres may submit to the Commission a plan for the use and development of all of the tract of land for residential purposes. After study and public hearing, the Commission may approve or disapprove the development plan. If the Commission approves the development plan, the Commission may authorize the issuance of building permits and certificates of occupancy therefor, even though the use of the land and location of structures do not conform in all respects to the regulations contained in other sections of this chapter. If the development plan is approved, the Commission shall make a report stating the reasons for approving the development plan

[†] **EDITOR'S NOTE:** Ordinance No. 701 was adopted on April 9, 2012.

and specific evidence and facts showing that the proposed development meets the following conditions:

(Code of Iowa, Sec. 414.1 and 414.4)

- A. The plan is consistent with the intent and purpose of this chapter to promote public health, safety, morals and general welfare.
- B. The values of building and the character of the property adjoining the area included in such plan will not be adversely affected.
- C. The average lot area per family contained in the site, exclusive of the area occupied by streets, shall not be less than the lot area per family required for the district in which the development is located.
- D. The buildings shall be used for residential purposes and the customary accessory uses, such as garages, storage space, or community activities, including churches.

2. Plan Review and Approval – Local Commercial Centers. The owner of any tract of land comprising an area of not less than six (6) acres may submit to the Commission a plan for the use and development of all of the tract of land for local commercial purposes. After study and public hearing the Commission may approve or disapprove the development plan. If the Commission approves the development plan, the responsible agency may authorize the issuance of building permits and certificates of occupancy therefor, even though the use of the land and location of structures do not conform in all respects to the regulations contained in other sections of this chapter. If the development plan is approved, the Commission shall make a report stating the reasons for approving the development and specific evidence and facts showing that the proposed development contributes to the harmonious development of the City within which major shopping centers have a place and that the proposed development is consistent with the intent and purpose of this chapter to promote public health, safety, morals, and general welfare.

(Code of Iowa, Sec. 414.1, 414.3 and 414.4)

CHAPTER 168 ZONING CODE – NONCONFORMING USES AND STRUCTURES

168.01 Regulations for Nonconforming Uses and Structures 168.02 District Boundary Changes

168.01 REGULATIONS FOR NONCONFORMING USES AND STRUCTURES. The lawful use of any building or premises existing at the time of the enactment of these regulations shall be allowed to continue, although the use does not conform to the regulations in the respective district, and such building may be reconstructed or structurally altered and nonconforming use changed subject to the following regulations:

(Code of Iowa, Sec. 414.2)

1. **Unsafe Structures.** Any structure or part thereof that is declared unsafe, may be restored to a safe condition.
2. **Reconstruction and Alteration.** Any nonconforming building may not be reconstructed or structurally altered during its life to exceed a cost of 50 percent of the assessed value of the building unless the building is changed to conform with the regulations of the district.
3. **Extension of Building.** There shall not be extension of any building for a nonconforming use, but an extension to said building may be allowed for a conforming use.
4. **Damaged or Destroyed Buildings.** Any building damaged by fire or other causes to the extent of 50 percent of its assessed value shall not be repaired or rebuilt unless it is in conformity with the regulation of the respective district.
5. **Discontinuance.** Upon the discontinuance of a nonconforming use for a period of one year, the use shall not be re-established. Any future use shall be in conformity with the regulations of the respective district.
6. **Reversion.** No conforming use shall be extended to replace a conforming use.
7. **Extension of Use.** No nonconforming use shall be extended to replace a conforming use.

168.02 DISTRICT BOUNDARY CHANGES. If the boundaries of a district are changed so as to transfer an area from one district to another district with different regulations, the provisions in Section 168.01 shall apply to any nonconforming uses existing in this district.

CHAPTER 169 ZONING CODE – ADMINISTRATION AND ENFORCEMENT

169.01 Creation of Board of Adjustment
169.02 Powers and Duties of Board
169.03 Compensation
169.04 Enforcement Officer

169.05 Building Permits
169.06 Certificate of Occupancy
169.07 Interpretation; Conflict with Other Laws
169.08 Amendments and Changes

169.01 CREATION OF BOARD OF ADJUSTMENT. A Board of Adjustment is hereby established. The Board shall consist of five members. The Board shall appoint one of its members as Chairperson and another member as Secretary, and shall prescribe the rules for the conduct of its affairs.

(Code of Iowa, Sec. 414.7 and 414.8)

169.02 POWERS AND DUTIES OF BOARD. The powers and duties of the Board of Adjustment, as prescribed by law and this chapter, are specified as follows:

(Code of Iowa, Sec. 414.4, 414.10 and 414.12)

1. Interpretation. To hear and decide all appeals from the decision of an enforcing officer involving the interpretation of any regulation of this chapter.
2. Special Permits. To issue special permits for any of the uses which require such permits from the Board or for the extension of use, as it existed at the time these regulations went into effect, into a contiguous or more restricted district, but not for any other purpose or use. A special permit shall not be granted unless the Board finds that the use for which the permit is sought will not be injurious to the neighborhood or detrimental to the public welfare.
3. Variances. To vary or adapt any regulation of this chapter when any such regulation results in practical difficulty or unnecessary hardship that would prohibit the owner from the reasonable use of the land or building involved, but in no other case. No variance of any regulation shall be granted by the Board unless it finds: (i) that there is proof of the hardship and the conditions and circumstances are peculiar to such land or buildings and that these conditions and circumstances do not generally apply to the neighborhood; (ii) that the variance granted by the Board is the minimum variance possible to accomplish the purpose of providing for the reasonable use of land or building; and (iii) that the granting of the variance not change the essential character of the neighborhood and shall be in accordance with the general purpose and intent of this chapter.
4. Appeals. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the administrative officer. Appeals and applications made to the Board shall be made in writing within 30 days from and after the occurrence of the event from which the appeal is taken. The appeal or application shall state the interpretation that is claimed, the use for which the permit is sought, or the details of the variance applied for and the reason why the variance should be granted. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall forthwith cause notice of all appeals and applications filed with the Board to be given to the City Council and to all owners of all properties within a 300 foot radius of the area affected by the application or appeal; said notice to be given at least twenty (20) days prior to any hearing or action taken. Said notice to the owners of properties to be mailed by regular mail to the last known address of such owners.

5. Home Occupations. Applications for approval of home occupations shall be made in writing. They shall state in detail the proposed use and the reasons why the application should be approved and shall be accompanied by the written consent thereto of all owners of at least 80% of all properties within a 300 foot radius of the proposed home occupation, which 80% shall include all owners of properties abutting the proposed home occupation. The Board shall set a date for hearing on said application and give written notice thereof to all owners of properties within a 300 foot radius of the proposed home occupation whose written consent is not a part of the application. Said notice shall be mailed by regular mail to the last known address of such owners at least 20 days before the hearing. Such notice shall also be given to the City Council. The Board shall either approve or disapprove the proposed home occupation and, if approved, the Zoning Administrator shall issue to the applicant a non-transferable permit therefor.

6. Procedure. The Board shall act in strict compliance with the procedure prescribed by law and this chapter.

169.03 COMPENSATION. All members of the Board of Adjustment shall receive as compensation the sum of \$5.00 for each meeting attended, payable quarterly.

169.04 ENFORCEMENT OFFICER. The zoning regulations shall be administered and enforced by the Zoning Administrator. Any appeal concerning the decision of the Zoning Administrator may be made to the Board as provided in subsection 169.02(1).

(Code of Iowa, Sec. 372.13 and 414.10)

169.05 BUILDING PERMITS. The issuance of building permits shall be subject to the following provisions:

(Code of Iowa, Sec. 414.4)

1. Conformity with Zoning Code. There shall be no building or structure erected, added to, or structurally altered unless there has been a permit issued by the Zoning Administrator. Except upon a written request from the Board, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition, or alteration or use thereof will not conform to any of the regulations of this chapter.

2. Plot Plan Required. With all applications for building permits there shall be submitted two (2) copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and any other information necessary to determine and provide for the enforcement of this Zoning Code. A careful record of these applications and plot plans shall be kept in the office of the Zoning Administrator.

169.06 CERTIFICATE OF OCCUPANCY. The issuance of certificates of occupancy shall be subject to the following provisions:

(Code of Iowa, Sec. 414.4)

1. Conformity with Zoning District Regulations. No land shall be used or occupied and no building hereafter erected or structurally altered shall be used or changed in use until there has been a certificate of occupancy issued by the Zoning Administrator stating that the building or proposed use complies with the regulations of the respective district.

2. Nonconforming Uses. There shall be no nonconforming use maintained, renewed, changed, or extended without a certificate of occupancy issued by the Zoning Administrator.
3. Application for and Issuance of Certificate of Occupancy. A certificate of occupancy must be applied for coincident with the application for a building permit. The certificate shall be issued within ten (10) days after the erection or structural alteration has been approved as complying with the regulations of this Zoning Code.
4. Records. A record of all certificates shall be kept in the office of the Zoning Administrator and copies shall be furnished, upon request, to any person having proprietary or tenancy interest in the building affected.
5. Application Must Be Filed before Permit Issued. There shall be no permit for excavation for, or the erection or alteration of, or repairs to any building issued until there has been an application filed for a certificate of occupancy.

169.07 INTERPRETATION; CONFLICT WITH OTHER LAWS. In the interpreting or applying the provisions of this Zoning Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety, convenience, comfort, and general welfare. Whenever the requirements of this chapter are in conflict with the requirements of any other local statute, ordinance, or regulation, the most restrictive or that imposing the higher standards shall govern.

(Code of Iowa, Sec. 414.21)

169.08 AMENDMENTS AND CHANGES. The Council may from time to time amend, change, modify, or repeal any portion of the Zoning Code or zoning map, provided there is such a request in the form of a motion from the Commission, a motion originating within the Council or a petition signed by a property owner, subject to the following:

(Code of Iowa, Sec. 414.5 and 414.6)

1. Every proposed amendment or change, whether originating with the Commission, the Council, or by petition, shall be referred to the Commission for a public hearing and a report to the Council thereon.
2. In the event there is a request for a change in the zoning classification of any property, the Planning and Zoning Commission shall notify all property owners within a 200-foot radius of the proposed change by certified mail at least 15 days prior to the hearing.
3. All requests for changes in zoning classifications shall be submitted with a plot plan, with a drawing of the proposed structure. Any changes to these plans, other than cosmetic, without the prior approval of the Council after hearings, as provided in this section, shall render the change in classification null and void.
4. Written consents and protests by property owners to amendments to the Zoning Code shall be of no force or effect unless dated within three months prior to the time the proposed amendment is submitted to the Council.
5. After receiving a report from the Planning and Zoning Commission, the Council shall set the matter down for public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City.

6. Written Protest. If a written protest against a proposed change in the boundaries of a district signed and acknowledged by the owners of 20 percent or more of the property within 200 feet of the property proposed to be altered is filed with the Clerk at or before the public hearing, such amendment shall not be passed or become effective except by the favorable vote of three-fourths of all members of the Council.

7. Notices given pursuant to this section shall contain the legal description of the affected property as well as the street address or other local description.

CHAPTER 170 RESERVED

CHAPTER 171 RESERVED

CHAPTER 172 RESERVED

CHAPTER 173 RESERVED

CHAPTER 174 RESERVED

CHAPTER 175 SUBDIVISION CONTROL

175.01 Title
 175.02 Compliance Required
 175.03 Definitions
 175.04 Procedure
 175.05 Acreages Excepted
 175.06 Preliminary Plat Requirements
 175.07 Final Plat Requirements
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175.09 Required Land Improvements
 175.10 Parks, School Sites and Other Public Areas
 175.11 Lot Size and Area
 175.12 Occupancy Permits
 175.13 Annexation
 175.14 Enforcement
 175.15 Special Penalty

175.01 TITLE. This chapter shall be known and may be cited as “Subdivision Control Regulations of Audubon, Iowa.”

175.02 COMPLIANCE REQUIRED. No plat of subdivision of land within the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two (2) miles from the corporate limits thereof, shall be approved excepting in full compliance with the provisions of this chapter.

175.03 DEFINITIONS. When used in this chapter, the following terms shall have the meaning indicated:

1. “Alley” means a public way which affords a secondary means of access to abutting property.
2. “Building setback line” means a line within a lot or other parcel of land, so designated on the plat of the proposed subdivision, between which and the adjacent boundary of the street upon which the lot abuts, the erection of an enclosed structure or portion thereof is prohibited.
3. “Butt lots” means lots, the rear lines of which abut the side lot lines of other lots platted in the same block and not separated therefrom by an alley or other open space.
4. “Collector street” means a street which carries traffic from minor streets to the major street system, including the principal entrance streets of residence development and the primary circulating streets within such a development.
5. “Commission” means the Planning and Zoning Commission of Audubon, Iowa.
6. “Crosswalk” means a public or private right-of-way across a block to be used by pedestrians and/or for underground utilities.
7. “Cul-de-sac” means a minor street having one open end and being terminated at the other by a vehicular turnaround.
8. “Easement” means the quantity of land set aside or over which a liberty, privilege, or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public.
9. “Final plat” means a map or chart of a subdivision which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots, and other divisions thereof can be identified.
10. “Lot width” means the width of the lot measured along the minimum building setback line, except for lots which front on the concave side of a curving street, where the width of lot shall be measured 60 feet back from the front lot line.
11. “Major street” means a public thoroughfare with a high degree of traffic continuity having a width established at 80 feet or more by the thoroughfare plan established in the official plan of the City.

12. “Owner” means either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of any of them.
13. “Preliminary plat” means a map or plan of a proposed land division or subdivision.
14. “Street” means a public or private thoroughfare which affords primary access by pedestrians and vehicles to abutting property.
15. “Subdivision” means a division of a lot, tract, or parcel of land into three or more lots, or other divisions of land, for the purpose whether immediate or future, of transfer of ownership, building development, or redevelopment, including all changes in street or lot lines; provided, however, divisions of land for agricultural purposes, in parcels of five acres or more not involving any new street or easement of access, shall be exempted.
16. “Tentative approval” means an approval, with or without recommended alterations, given to a preliminary plat by the Commission, and provides the necessary authority to proceed with the preparation and presentation of the final plat.

175.04 PROCEDURE. In order to subdivide any tract of land, an owner or subdivider shall follow the procedure set forth in this section.

1. Preliminary Plat Procedure. The procedure for preliminary plat submittal and review is as follows:
 - A. The subdivider shall file with the Council, at the office of the Clerk, six (6) copies of the preliminary plat, at least ten (10) days prior to the Commission meeting and pay a filing fee in accordance with the following rates:
 - (1) For 1 to 25 lots, a fee of \$25.00.
 - (2) For 25 to 50 lots, a fee of \$50.00.
 - (3) For 50 to 100 lots, a fee of \$100.00.
 - (4) For more than 100 lots, a fee of \$200.00.
 - B. The Clerk shall immediately distribute one copy to the Commission, two copies to the Public Works Director, one copy to the Superintendent of schools, one copy to the City Attorney and one copy to the Council.
 - C. The recommendation of the Commission shall be due within 45 days after receipt of the preliminary plat by the Commission; and the recommendation shall be returned to the Clerk for referral to the Council.
 - D. In the event of disapproval of any preliminary plat by the Council, the same shall be immediately returned, so marked; to the Clerk for return to the subdivider. The subdivider may then file a revised preliminary plat in accordance with paragraph A of this subsection, upon payment of a re-filing fee in the amount of 25 percent of the original filing fee as determined by the above paragraph A.
 - E. A preliminary plat for a specific area of land shall be held valid, as applicable to this chapter, for a period of three years after the date of approval by the Council. The period of validity of such preliminary plat may be extended for periods of one year only after request for such extension has been submitted to and approved by the Council within the final 60 days of any aforementioned period of validity.

2. Engineering Plans Required. Within 12 months after receiving approval of the preliminary plat by the Council, there shall be submitted to the Clerk by the subdivider four (4) copies of the engineering plans and specifications as required in Section 175.08. The Clerk shall immediately refer two (2) copies to the Commission and two (2) copies to the Public Works Director and shall notify the Council of this action at the next regular Council meeting. In the event of a special problem, the Commission shall notify the owner or subdivider of the time and place at which said person shall be afforded an opportunity of being heard. The Commission shall make its recommendation to the Council within 45 days after receipt of the engineering drawings and specifications. In the event of disapproval of the engineering plans and specifications by the Commission, the same shall be immediately returned so marked to the Clerk for return to the subdivider, and may be re-filed with the Clerk after necessary revisions are made.

3. Final Plat Procedure. The procedure for final plat submittal and review is as follows:

A. Within six (6) months after receiving approval of the engineering plans and specifications by the Commission, or a period of time beyond six months that may be granted by the Council, there shall be submitted to the Clerk, by the subdivider, the original drawing, one transparency print, and four copies of the final plat, which shall also contain all required signed certifications, other than signed certificates of approval by the Commission, the Council, and the Public Works Director. The final plat shall retain the overall characteristics of the preliminary plat and may include all or part of the area shown on the preliminary plat.

B. The Clerk shall refer the original drawing and two copies of the final plat to the Commission, and one copy of the final plat to the Public Works Director at least ten (10) days prior to their next regularly scheduled meeting for a recommendation as to final approval. In the event of a special problem, the Commission shall notify the owner or subdivider as to the time and place of the Commission meeting, at which time said owner or subdivider will be afforded an opportunity of being heard. The Commission shall make its recommendation within thirty (30) days after the receipt of the final plat at a meeting of the Commission. The original drawing, one copy of the final plat, and recommendation shall be returned to the Clerk for referral to the Council.

C. After receiving the final report of the Commission, the Council shall approve or disapprove the final plat within thirty (30) days. In the event of disapproval of the final plat by the Council, the same shall be immediately returned to the subdivider and may be re-filed as provided in paragraph A of this subsection with the Clerk after the necessary revisions have been made.

D. Following the final approval of the final plat, in accordance with this subsection, the Clerk shall notify the owner or subdivider by letter. The owner or subdivider shall, within ten (10) days after the aforementioned final approval, record the final plat at the County Recorder's office. The Clerk shall at that time obtain from the owner or subdivider four copies of the final plat bearing evidence of recording, with one copy going to the Clerk's file, one copy to the Commission file, and two copies going to the Public Works Director. The cost of recording shall be paid to the County Recorder by the owner or subdivider.

175.05 ACREAGES EXCEPTED. The above procedures shall not be required for the division or subdivision of land into parcels of five (5) acres or more in size and not involving a new street or easement of access, or the sale or exchange of existing parcels or tracts of land, or the division of lots and blocks in recording subdivisions.

175.06 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the information herein specified and comply with the following requirements:

1. Description and Delineation. The following descriptions and delineations are required:
 - A. Proposed name of subdivision.
 - B. Location of the subdivision by section, township, and range, or by other legal description.
 - C. Names and addresses of the owner and the designer of the subdivision.
 - D. Date of preparation, scale 100 feet to the inch, and north point (designated as true north).
2. Existing Conditions. The preliminary plat shall show the following existing conditions:
 - A. Boundary line of proposed subdivision indicated by solid heavy line and the total approximate acreage encompassed thereby.
 - B. Locations, width, and names of all existing or prior platted streets or other public ways, railroad, and other utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and section corporation lines, within and adjacent to the tract.
 - C. Existing culverts, sewers, water mains, or other underground facilities within the tract and to a distance of at least 100 feet beyond the tract boundaries indicating pipe sizes, grades, manholes, and exact location.
 - D. Boundary lines of adjacent tracts of unsubdivided or subdivided land, showing ownership where possible.
 - E. Contour at vertical intervals of not more than two (2) feet. High water levels of all watercourses, if any, shall be indicated in same datum used for contour elevations. If any portion of the land within the boundaries of the proposed subdivision is subject to overflow, inundation or flood hazard by storm waters, such fact and such portion shall be clearly shown on the subdivision plat.
3. Proposed Subdivision Plan. The proposed plan for the subdivision shall show the following:
 - A. Layout of streets showing location and widths of streets, crosswalks, and easements.
 - B. Layout, numbers, and typical dimensions of lots.
 - C. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision.
 - D. Building setback lines, showing dimensions.
 - E. Easements for public utilities where alleys are not provided.

- F. Typical street cross sections.
 - G. Layout of proposed waterlines, sewer lines, water shut off valves, and junction boxes for either water or sewer lines, all to be located in the parkway.
4. Installment of Improvements. The preliminary plat shall show or a certificate shall be submitted to the effect that the subdivider will install all of the following items in accordance with the current standards and specifications as set forth in pertinent City policy:
- A. Pavements.
 - B. Curb and gutter.
 - C. Street lights.
 - D. Sidewalks.
 - E. Parkway seeding and tree planting.

175.07 FINAL PLAT REQUIREMENTS. The final plat shall contain all information required on the preliminary plat, except contours, plus the following:

1. Dimensions. Accurate angular and lineal dimensions for all lines, angles, and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features.
2. Identification System. An identification system for all lots and blocks and names of streets. Lot lines to show dimensions in feet and hundredths.
3. Angles and Distances to Street Lines or Official Monuments. True angles and distances to the nearest established street lines or official monuments, not less than three of which shall be accurately described in the plat.
4. Measurements. Radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs.
5. Monuments. Accurate location of all monuments, which shall be concrete 6 x 6 x 30-inch with iron pipe cast in center. Permanent stone or concrete monuments shall be set at each corner or angle on the outside boundary. Pipes or other physical markers shall be placed at each intersection of street centerlines. All U.S., State, County, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property, shall be preserved in precise position.
6. Physical Markers. Pipes or other physical markers shall be placed at each lot corner.
7. Dedication and Reservations. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed, covenant for common uses of all property owners.
8. Certification by Surveyor. Certification by a licensed surveyor to the effect that the plat represents a survey made by the surveyor and that monuments and markers shown thereon exist, as located, and that all dimensional and geodetic details are correct.
9. Approval of Utility Installations. Approval by signature of City, County and State officials concerned with the specification of utility installations.

10. Commission Approval. Approval by signature of the Commission. This approval of the final plat shall not be deemed to constitute or affect an acceptance by the public of the dedication of any street or other proposed public way or space shown on the plat.

11. Accompanying Material. The following material shall be submitted with the final plat:

A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

E. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

175.08 AGREEMENTS AS TO IMPROVEMENTS. The final plat to be placed on record shall be accompanied by a statement signed by the owner and subdivider, setting forth the following:

1. Plans and Specifications. Plans and specifications for such improvements previously approved by the City Engineer, clearly describing the same.

2. Agreement. Agreement executed by the owner and subdivider wherein they agree to make and install the improvements provided for in Section 175.09, in accordance with the plans and specifications accompanying the final plat; and that all such improvements shall be inspected during the course of construction by an inspector appointed by the Council, salaries and other costs in connection with such inspections to be paid by the owner and subdivider, such costs to be based on the reasonable, customary charges for such service.

3. Surety Bond. In the event that the Council, by motion, approves the action of the Commission in approving the final plat, it shall withhold its approval of the plat until an agreement signed by the subdivider, as provided in subsection 2 of this section, shall be given, supported by a bond executed by an acceptable surety company in an amount equal to the estimated cost of construction of the required improvements, which estimated cost shall be determined by the City Engineer. The surety will be subject to the condition that the improvements will be completed within two years after approval of the final plat. As an alternative, the subdivider may deposit cash with the City in place of said surety bond.

175.09 REQUIRED LAND IMPROVEMENTS. No final plat of subdivision of land shall be approved without receiving a statement signed by the City Engineer certifying that the improvements described in the subdivider's plans and specifications, together with agreements, meet the minimum requirements of all ordinances of the City and, as established by the City Engineer, that they comply with the following:

1. Sewers. Sewers shall comply with the following requirements:
 - A. Sanitary sewers shall be installed to serve all properties in the subdivision.
 - B. Storm sewers shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and be connected to an adequate outfall. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. The storm water drainage system shall be separate and independent of the sanitary sewer system.
 - C. The capacity and size of sewer mains shall be determined by the Council.
2. Street Improvements. Streets shall comply with the following requirements:
 - A. Grades of streets shall not be in excess of three percent on major collector streets, or in excess of five percent on other streets.
 - B. All streets within the corporate limits of the City other than State and County highways shall be improved with pavements bounded by integral concrete curb and gutters, to an overall width in accordance with the following minimum dimensions:

Type of Street	Dedicated Street Width	Pavement Width
Major	Conform to Thoroughfare Plan	Conform to Thoroughfare Plan
Collector	60 feet	32 feet
Cul-de-sac	60 feet	32 feet
Cul-de-sac turnaround	60 feet	60 feet

- C. Pavements shall be six inches thick Portland cement concrete.
- D. Curbs and gutters on minor residential streets shall be concrete of the integral rolled type unit, not less than 18 inches thick where curb abuts the street pavement.

- E. Storm water inlets and catch basins shall be provided within the roadway improvement at points specified by the City Engineer.
 - F. All curb corners shall have a radius of not less than 15 feet and at intersections involving collector or major streets of not less than 25 feet.
 - iii In subdivisions outside the corporate area, but within the two-mile area, street improvements shall conform to standards of improvements as outlined in this chapter for subdivisions within the corporate area.
 - G. Street name signs at all corners not previously marked. Said signs shall be of the identical dimensions and coloring as similar signs used by the City.
 - H. All parkways within the dedicated right-of-way graded and seeded. All stumps, trees that cannot be saved, boulders, and similar items shall be removed.
 - I. In all parkways, trees shall be planted. No fewer than two trees per lot shall be planted.
 - J. In the case of a residential zone abutting an industrial zone, the subdivider shall provide a row of trees to act as a screening device between the two zones.
3. Public Utilities. Public utilities shall conform to the following requirements:
- A. All utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles.
 - B. Where telephone and electric service lines are placed underground entirely throughout a subdivided area, said conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.
4. Sidewalks. When requested by the Council, concrete sidewalks to a width of not less than five (5) feet offset one foot from the abutting lot lines shall be required.
5. Water Supply. Water supply system shall comply with the following requirements:
- A. All water main plans and installations, including all appurtenances thereto, shall conform to the standards and specifications set forth in the City ordinances pertinent thereto.
 - B. Water distribution facilities, including all pipe fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision.
 - C. Where water mains of larger capacity than necessary to serve the subdivision as delineated in the preliminary plan are required to serve the future growth in the vicinity of the subdivision, as determined by the Council, the City shall specify the size of the larger main and the subdivider shall provide the same.

175.10 PARKS, SCHOOL SITES AND OTHER PUBLIC AREAS. Where a proposed park, playground, school site or other public use area, shown in the City plan and adjacent unincorporated areas, is located in whole or in part in a subdivision, the Commission or the

Council may require the dedication or reservation of such area, in whole or in part, within the subdivision in those cases in which the commission or the council deem such requirements to be reasonable. However, in no case, shall the total amount of required public areas to be dedicated or reserved, in addition to the public streets, exceed 10 percent of the total gross acreage controlled by the owner. The acquisition of the additional area needed for parks, playgrounds, schools, or other public uses, other than streets and alleys, shall be secured by the authority having jurisdiction. Arrangements for securing said area from the owner shall be made within a period not to exceed ninety (90) days from the date the plat is recorded.

175.11 LOT SIZE AND AREA. The minimum depth of lots shall be pursuant to applicable zoning regulations.

175.12 OCCUPANCY PERMITS. No land shall be occupied or used and no dwelling hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until a certificate shall have been issued by the building commissioner stating that the building complies with all dwelling and health laws and ordinances, and with the provisions of this chapter. No change of use shall be made in any dwelling or part thereof now or hereafter erected or altered, without a permit having been issued by the building commissioner and no permit shall be issued to make such change unless it is in conformity with the provisions of this chapter or amendments thereto hereafter duly enacted. Nothing in this section shall prevent the continuance of the present occupancy or use of any existing dwelling except as may be necessary for safety of life and property. Certificates for occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten (10) days after erection or alteration of such buildings shall have been completed. A record of all certificates shall be kept on file in the office of the building commissioner and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. A fee of \$2.00 shall be charged for each original certificate and \$1.00 for each copy thereof, which fees shall be collected by the building commissioner and paid over to the City Treasurer. No permit for excavation for the erection of any building shall be issued before application has been made for certificate of occupancy and compliance. No building or premises may be occupied until such certificate shall have been issued.

175.13 ANNEXATION. Any areas proposed for annexation to the present corporation limits of the City shall be studied by the Commission and a public hearing held on the proposed use district, prior to the incorporation of the area into the City. Each petition for annexation to the City shall be accompanied by petitions for the annexation of the same territory to the park district, unless the territory is already entirely within said park district.

175.14 ENFORCEMENT. The Council shall appoint an individual to act as a Zoning Administrator and it shall be the duty of said officer to enforce this chapter.

175.15 SPECIAL PENALTY. In case any building or structure is erected, constructed, reconstructed, altered; repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the City, in addition to other remedies, may institute any property action or proceedings to prevent such unlawful erection, construction; reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent any illegal act, conduct business or use in or about such premises

APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”
2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.
3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.
4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.
(Code of Iowa, Sec. 372.13[4])

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as follows:

ORDINANCE NO. ____ AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AUDUBON, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO THIRTY MINUTES ON A PORTION OF SOUTH BOONE STREET

BE IT ENACTED by the City Council of the City of Audubon, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Audubon, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO THIRTY MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. South Boone Street, on the west side, from Forest Avenue to Mason Drive.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk
First Reading: _____
Second Reading: _____
Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS as follows:

ORDINANCE NO. ____ AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AUDUBON, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON LAKE BOULEVARD

BE IT ENACTED by the City Council of the City of Audubon, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Audubon, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on Lake Boulevard to stop at Second Place North.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed as follows:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AUDUBON, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Audubon, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.02 of the Code of Ordinances of the City of Audubon, Iowa, is repealed and the following adopted in lieu thereof:

99.02 RATE. Each customer shall pay sewer service charges in the amount of 100 percent (100%) of the bill for water and water service attributable to the customer for the property served, but in no event less than ten dollars (\$10.00) per month.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ____, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____ AN ORDINANCE VACATING THE ALLEY LYING IN BLOCK TWO (2) RAILROAD ADDITION TO AUDUBON, IOWA

Be It Enacted by the City Council of the City of Audubon, Iowa:

SECTION 1. The alley lying in Block Two (2), Railroad Addition to Audubon, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Audubon, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Audubon, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Audubon, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Audubon, Iowa

By: _____
(enforcement officer)

RESOLUTION AND ORDER REGARDING DANGEROUS BUILDING

BE IT RESOLVED, by the City Council of the City of Audubon, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent); and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council;

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate;

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent; and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above; and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.
Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice. The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Audubon, Iowa

By: _____
(designate officer initiating notice)

NOTICE REQUIRED SEWER CONNECTION

TO: _____
 (Name)

 (Street Address)
 _____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Audubon, Iowa

By: _____, _____
 (Name) (Title)

NOTICE OF HEARING REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Audubon, Iowa, will meet on the ____ day of _____, 20____, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Audubon, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Audubon, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on
 _____,
 (Name of Property Owner)
 through _____, Agent,
 (Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
 within _____ (_____) days from service of notice upon said owner or agent; and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council;

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon;

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent,

 (Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent; and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above; and
BE IT FURTHER RESOLVED, that in the event the owner, or agent,

 (Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

 (Owner's Name)

_____, as provided by law.

(Address)
Moved by _____ to adopt.

Seconded by _____.

AYES: _____,
_____, _____.

NAYS: _____,
_____, _____.

Resolution approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk