

CHAPTER 1

CODE OF ORDINANCES

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

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Marquette, Iowa, 2019. (*Ord. 407 – May 19 Supp.*)

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 Marquette, Iowa.
3. “Clerk” means the city clerk of Marquette, 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 Marquette, Iowa, 2019. (*Ord. 407 – May 19 Supp.*)
6. “Council” means the city council of Marquette, Iowa.
7. “County” means Clayton 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means the ordinances of the City of Marquette, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 preserve and improve the peace, safety, health, welfare, comfort

and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

synonymous with the term “ordinance” when applied to this Code of Ordinances.

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by 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 only a monetary fine as provided for a misdemeanor violation under Iowa Code Section 903.1, Subsection 1, Paragraph “a.”

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

(Ord. 419 – Nov. 20 Supp.)

[The next page is 9]

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

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

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two (2) 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)

o o o o o o o o o o

CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense - Not to exceed \$500.00

B. Each Repeat Offense - Not to exceed \$750.00

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

2. Special Civil Penalties.

A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.

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

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

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

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

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

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

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

(Ord. 353 – Dec. 10 Supp.)

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

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

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

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

[The next page is 21]

CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the

Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

5.07 CONFLICT OF INTEREST.

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

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

5. 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 Paragraph *i*, 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 paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.

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

6. Newspaper. The designation of an official newspaper.

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

7. 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])

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

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

9. 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])

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of six thousand (\$6000.00) in a fiscal year.

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

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

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

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[3l])

(Section 5.07 – Ord. 408 – Nov. 20 Supp.)

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13124)

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

(Code of Iowa, Sec. 372.131241)

(Ord. 381 – Dec. 14 Supp.)

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

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

[The next page is 29]

CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

[The next page is 35]

CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

7.02 FINANCE OFFICER. The 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, collection-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall

be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

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

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

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

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

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

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

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

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.
(IAC, 545-2.5[384,388], Sec. 2.5[5])

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by Council.

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(*Code of Iowa, Sec. 384.15A*)

A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.

B. If the City has in internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications,

the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

(1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by Council under Paragraph C of this subsection.

C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County

Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.

E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.

5. 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.

6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than ten (10) nor more than twenty (20) days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

7. 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 City Clerk and have a copy posted at one of the places designated for the posting of notices.

(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 submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. 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])

(Section 7.05 – Ord. 410 – Nov. 20 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by the City Clerk and by one of the following: Mayor, Mayor Pro Tem, or a Council member designated by resolution of the Council.
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 first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

o o o o o o o o o o

CHAPTER 8
URBAN RENEWAL

| EDITOR'S NOTE | | |
|--|-------------------|--|
| <p>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.</p> | | |
| ORDINANCE NO. | ADOPTED | NAME OF AREA |
| 254 | January 11, 1994 | Marquette Urban Renewal Area |
| 268 | October 10, 1995 | 1994 Addition to the Marquette Urban Renewal Area |
| 322 | December 20, 2005 | Pleasant Ridge Urban Renewal Area |
| | | |
| | | |

[The next page is 71]

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 two (2) 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 which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

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

1. Mayor Pro Tem
2. Police Chief (subject to Council approval and subject to any intergovernmental agreements as provided in Section 30.12)
3. Dock Commission (subject to Council approval)
4. Tree Board

15.04 COMPENSATION. The salary of the Mayor is five thousand dollars (\$5000.00) per year, plus fifty dollars (\$50.00) per meeting, and reimbursement for actual expenses incurred in the performance of duties of the office. A change in the compensation of the Mayor shall not become effective during the term of office in which the change is adopted, nor shall the Council adopt such an ordinance during the months of November or December immediately following a regular city election.
(Ord. 305 – Oct. 04 Supp.)

(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 Pro Tem is vice president of the Council.

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

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

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

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

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

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

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

o o o o o o o o o

CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council members elected at large for overlapping terms of four (4) years.

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

5. 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])

6. 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 twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

D. If the Mayor vetoes an ordinance, amendment or resolution and the Council repasses the measure after the Mayor's veto, a

resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The Council shall hold one regular meeting each month, which shall be on the second Tuesday of the month at six o'clock (6:00) p.m. in the Council Room, City Hall, unless a different date, time or place for a particular regular meeting is approved by the Council at a previous regular meeting. *(Ord. 391 – Sep. 17 Supp.)*

2. Special Meetings. Special meetings shall be held upon the call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Except in urgent circumstances justifying departure from the normal twenty-four (24) hour notice requirement under the Iowa Open Meetings Law, no special meeting shall be held upon less than twenty-four (24) hour advance notice to the Mayor and all Council members. The Clerk shall prepare a written notice of each special meeting specifying the date, time, place and subject of the meeting. A copy of the tentative agenda prepared in

compliance with the Iowa Open Meetings Law may serve as the written notice. The twenty-four (24) hour advance notice requirement may be satisfied by any of the following methods:

- A. Mailing the written notice by first class U.S. mail, at least three business days prior to the meeting date, to the residential address of the Mayor or Council member or to such other mailing address as such officer has designated in writing.
- B. Personal delivery of the written notice to the Mayor or Council member.
- C. Personal delivery of the written notice at the Mayor's or Council member's residence to an adult person who also resides there.
- D. If requested in writing by the Mayor or Council member, by facsimile transmission or E-mail to the number or address designated by the officer.
- E. If written notice cannot be timely delivered under subparagraphs (A) through (D), then by direct oral communication by the Clerk to the Mayor or Council member at least twenty-four (24) hours before the meeting, followed by delivery of the written notice as above provided as promptly thereafter as is reasonably possible.

A record of the service of the notice shall be maintained by the Clerk.

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

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

1. City Clerk-Treasurer
2. City Attorney
3. Zoning Commission
4. Zoning Board of Adjustment

17.06 COMPENSATION. The salary of each Council member is fifty dollars (\$50.00) for each Council meeting attended, plus reimbursement for actual expenses incurred in the performance of duties of the office.

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

[The next page is 83]

CHAPTER 18

CITY CLERK-TREASURER

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

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

18.01 APPOINTMENT AND COMPENSATION. At its first meeting in January following the regular city election the Council shall appoint by majority vote a City Clerk to serve for a term of two (2) years. All references in this Code of Ordinances to “Clerk” mean “City Clerk-Treasurer.” 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, and shall perform such other duties as may be specified by the Council.

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days

before the date of the election, hearing or other action, unless otherwise provided by law.

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

City Hall
Post Office
Central State Bank

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

18.10 ISSUE LICENSES AND PERMITS. The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued which shall show date of issuance, license

or permit number, official receipt number, name of person to whom issued, term of license or permit and purpose for which issued.

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

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

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*. *(Ord. 381 – Dec. 14 Supp.)*

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

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

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 Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
4. Special Assessments. Keep a separate account of all money received from special assessments.
5. Debt Service. Sign all evidences of indebtedness issued by the City when required by law and keep a register of all debts outstanding and record all payments of interest and principal.
6. Administrative Agencies. Serve as treasurer of all City boards and commissions.

[The next page is 89]

CHAPTER 19

CITY ATTORNEY

19.01 Appointment and Compensation
19.02 Attorney for City
19.03 Power of Attorney
19.04 Ordinance Preparation

19.05 Review and Comment
19.06 Provide Legal Opinion
19.07 Attendance at Council Meetings
19.08 Prepare Documents

19.01 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 the Council.

19.02 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])

19.03 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])

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

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

19.05 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])

19.06 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])

19.07 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])

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

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

CHAPTER 20

ZONING COMMISSION

20.01 Zoning Commission Created
20.02 Term of Office
20.03 Compensation

20.04 Powers and Duties
20.05 Limitations
20.06 Meetings and Minutes

20.01 ZONING COMMISSION CREATED. There is hereby created a City Zoning Commission, composed of five (5) members who shall be residents of the City and shall be qualified by knowledge and experience to act in matters pertaining to the development of city zoning, none of whom shall hold any elective position in the City government. Such members shall be appointed by the City Council.

(Code of Iowa, Sec. 414.6 & 392.1)

20.02 TERM OF OFFICE. The term of office of the members of the Zoning Commission shall be three (3) years, except that the members first named shall hold office for such terms, not exceeding three (3) years, as designated by the Council, so that the terms of not more than one-third of the members will expire in any one year. Any vacancy occurring on the Commission, caused by resignation or otherwise, shall be filled by the Council for the unexpired term.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

20.04 POWERS AND DUTIES. The Commission shall have and exercise the following powers and duties, and such other powers and duties as may be incidental to the successful carrying out of the powers vested in it herein or such as may be expressly conferred upon it by law:

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

3. Zoning. The Commission shall have and exercise all powers, duties and privileges in establishing City zoning regulations and amendments, supplements, changes or modifications thereto, all as provided by Chapter 414 of the Code of Iowa. Without limitation, the duties of the Commission shall include the compilation of a preliminary report setting forth the recommended zoning classification districts, the boundaries of the same, and appropriate regulations and restrictions to be enforced therein, holding public hearings on said preliminary report, the submission of a final report and recommendation to the Council and, following adoption of a zoning ordinance by the Council, recommendations to the Council regarding amendments, supplements, changes or modifications to the zoning ordinance.

4. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City any sums of money which may be appropriated to it by the Council.

20.05 LIMITATIONS. The Commission shall have no power to borrow money or pledge the credit of the City, to hire any employee or agent, or to bind the City to any contracts without the prior approval of the Council.

20.06 MEETINGS AND MINUTES. The Commission is a governmental body and shall comply with Iowa Code Chapter 21 (Iowa Open Meetings Law) in conducting its business. The Clerk shall provide clerical service to the Commission as needed, and shall keep the minutes of all meetings of the Commission.

[The next page is 95]

CHAPTER 21

DOCK COMMISSION

21.01 Dock Commission Created
21.02 Definition of Riverfront
21.03 Commission Organization

21.04 Duties
21.05 Limitations
21.06 Open Meetings

21.01 DOCK COMMISSION CREATED. There is hereby created a City Dock Commission to advise the Council on riverfront matters.

21.02 DEFINITION OF RIVERFRONT. For purposes of this chapter, the “municipal riverfront” includes all that part of the Mississippi River shoreline and adjoining property which is within or adjacent to the corporate limits of the City and which is owned by or subject to the control of the City, including any public parks adjacent to the shoreline.

21.03 COMMISSION ORGANIZATION. The Commission shall consist of three (3) members who shall be residents of the City qualified by knowledge and experience on matters pertaining to the river and riverfront recreation and development. Appointments shall be made by the Mayor, with the approval of the Council, for staggered terms of three (3) years. The terms of the Commissioners first appointed shall be one, two and three years, respectively, as designated by the Mayor. The Commission shall, each year, elect from among its members a Chairperson, Vice Chairperson and Secretary. Commissioners shall serve without compensation but may receive reimbursement for their actual expenses. In the event of a vacancy, the Mayor shall, subject to Council approval, appoint a successor to serve the balance of the unexpired term. No Commissioner shall hold any elective City office.

21.04 DUTIES. It shall be the duty of the Commission to make recommendations to the Council on matters pertaining to the use, maintenance and development of the municipal riverfront and municipal property devoted to riverfront use.

21.05 LIMITATIONS. The Commission shall have no power to borrow money or pledge the credit of the City, to hire any employee or agent, or to bind the City to any contracts without the prior approval of the Council.

21.06 OPEN MEETINGS. The Commission is a governmental body and shall comply with Iowa Code Chapter 21 (Iowa Open Meetings Law) in conducting its business.

[The next page is 99]

CHAPTER 22

CITY MANAGER

22.01 Appointment, Term of Office and Removal
22.02 Compensation
22.03 Powers and Duties

22.04 Residency
22.05 Cooperation

22.01 APPOINTMENT, TERM OF OFFICE AND REMOVAL. The City Manager shall be appointed on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office. The Manager is to be appointed by a majority vote (3 voting members) of the Council. The Manager shall hold office at the pleasure of the Council and shall be subject to removal by a majority vote of the Council.

22.02 COMPENSATION. The Manager shall receive such annual salary as the Council shall from time to time determine by resolution, and payment shall be made bi-weekly from the treasury of the City, in the manner provided for paying other employees.

22.03 POWERS AND DUTIES. The City Manager is the chief administrative officer of the City. The duties of the Manager shall be as follows:

1. To supervise enforcement and execution of the City laws. The Manager shall not have authority in setting of City policy. Rather, this employee shall coordinate the administration of City policies, services, functions and programs.
2. To attend all meetings of the Council unless excused by the Council. The Manager shall attend meetings of boards and commissions of the City as required by the Council.
3. To recommend to the Council such measures as the Manager may deem necessary or expedient for the good government and welfare of the City.
4. To have the general supervision and direction of the administration of the City government.
5. To supervise and direct the official conduct of all non-elected officers and employees of the City, and take active control of the Administrative, Streets, Parks, Water, & Sewer Departments of the City. The Manager shall serve as personnel officer for the City with responsibilities to see that complete and current personnel records, including specific job descriptions, for all City employees are kept;

develop and enforce high standards of performance by City employees; make recommendations for hiring, removal and discipline of city employees; assure that City employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances. Work closely with employees to assure that they receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.

6. To supervise the performance of all contracts for work to be done for the City, make all purchases of material and supplies, and see that such material and supplies are received, and are of the quality and character called for by the contract.

7. To have the power, under the direction of the Council and Mayor, to superintend and inspect all work and improvements done and made upon the streets, alleys, sewers, waterworks system and public grounds.

8. To supervise the construction, improvement, repair, maintenance, and management of all City property, capital improvements, and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.

9. The City Manager, subject to the approval of the Council, shall make or cause to be made, with engineering assistance as shall be necessary, the necessary surveys, plats, drawings and estimates, together with suitable specifications for public works, and all necessary surveys of streets, alleys, and all public grounds, the lines of which shall be made in some substantial and permanent manner. Necessary plats of all surveys shall be filed with the office of the City Manager and recorded. The City Manager shall cause landmarks to be established either for surveying or grading of streets, the same to be accomplished by placing stones or other permanent monuments from which the grade or survey may be readily ascertained.

10. To cooperate with all administrative agencies and boards.

11. To summarily and without notice investigate the affairs and conduct of any department, agency, officer or employee under the Manager's supervision; or appoint a person to perform such duties.

12. To supervise the issuance and revocation of licenses and permits authorized by City law and the maintenance of these records.

13. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.

14. To act as the chief financial officer of the City, administering all activities relating to budgeting, cash management and investing, accounting and auditing, purchasing, financial reporting, and related work as required. *(Ord. 347 – Dec. 10 Supp.)*

15. Keep informed concerning current federal, state, and county legislation and administrative rules affecting the City and submit appropriate reports and recommendations to the Mayor and City Council.

16. Keep informed concerning the availability of federal, state and local grant programs and make necessary application on behalf of the City to obtain these funds.

17. Represent the City in matters involving legislative and inter-governmental affairs as authorized and directed as to that representation by the Mayor and Council.

18. Act as public information officer for the City with the responsibility of assuring that the news media are kept informed about the operations of the City and all open meetings rules and regulations are followed.

19. Establish and maintain procedures to facilitate communications between citizens and City government to assure that complaints, grievances, recommendations, and other matters receive prompt attention by the responsible official, and to assure that all such matters are expeditiously resolved. Promote the economic well-being and growth of the City through public and private sector cooperation.

20. To perform other duties at the Council's direction.

22.04 RESIDENCY. The Manager shall become a resident of the City of Marquette within one year following the date of appointment, unless this requirement is specifically waived or varied by Council ordinance or by contract authorized by the Council, and entered into with the Manager, covering the terms and conditions of residency.

22.05 COOPERATION. All officials and employees of the City shall cooperate with and assist the Manager so that the City government shall function effectively and efficiently.

(Ch. 22 - Ord. 323 – Oct. 06 Supp.)

[The next page is 105]

CHAPTER 23

DRIFTLESS AREA WETLANDS CENTRE BOARD OF DIRECTORS

23.01 Driftless Area Wetlands Centre Board of
Directors Created
23.02 Board Organization
23.03 Powers and Duties

23.04 Compensation
23.05 Limitations
23.06 Reports

23.01 DRIFTLESS AREA WETLANDS CENTRE BOARD OF DIRECTORS CREATED. An administrative agency designated as the Driftless Area Wetlands Centre Board of Directors is hereby created to administer the City's Driftless Area Wetlands Centre and all associated facilities, including parking lots and adjacent wetland areas.

23.02 BOARD ORGANIZATION. The Board of Directors shall consist of five (5) members, appointed as follows:

1. Four (4) members shall be appointed by the Mayor, subject to confirmation by the City Council. One (1) member shall be appointed for a three (3) year term, two (2) members shall be appointed for two (2) year terms, and one (1) member shall be appointed for a one (1) year term.
2. One (1) member shall be appointed for a three (3) year term by the MFL-MarMac Community School District Board of Directors.
3. All appointments after the initial appointments shall be for a term of three (3) years.
4. Vacancies shall be filled in the same manner as the original appointments.
5. The Board shall elect a chairperson, vice-chairperson and secretary from among its members. The City Clerk shall serve as Board Treasurer, but shall not be a member of the Board.
6. The Board of Directors is subject to the Iowa Open Meetings Law.

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

1. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations for the care, use, government and management of the Wetlands Centre and the business of the Board,

fixing and enforcing penalties for violations. Any such rules and regulations shall be consistent with this Code of Ordinances, state and federal law, and the 28E Agreement for Continuation of the Driftless Area Wetlands Centre filed on August 28, 2013, as Document #M506463 in the office of the Iowa Secretary of State, and any subsequent amendments thereto.

2. Physical Plant. To have charge, control and supervision of the Wetlands Centre, its appurtenances, fixtures and equipment.

3. Charge of Affairs. To direct and control all affairs of the Wetlands Centre and its associated facilities.

4. Personnel. To manage and supervise personnel devoted to Wetlands Centre operations; provided, however, that the hiring and firing of employees and rates of compensation shall be subject to approval by the Council.

5. Expenditures. To have exclusive control of the expenditure of all funds allocated for Wetlands Centre purposes by the Council, all moneys available by gift for Wetlands Centre purposes, and all other moneys received by the Wetlands Centre including rentals and the proceeds from the sale of concessions and other merchandise, subject to the limitation of expenditures set forth in the annual budget approved by the Council. Expenditures shall be made at the direction of the chairperson under procedures established by the Council for all departments of the City, with payments to be made by check written by the Clerk for claims and invoices submitted to and approved by the Board of Directors.

6. Budget Proposals. To annually prepare and submit to the Council a Wetlands Centre budget proposal for the next fiscal year at such time and in such form as required by the Council. The proposal shall include an estimate of revenue from sources other than allocation by the Council and indicate amounts proposed to be spent from such other sources and from existing balances in the Wetlands Centre fund and any Wetlands Centre trust fund.

7. Gifts. To accept gifts of property, devises and bequests, including trust funds, and to expend the funds received from such gifts for the improvement of the Wetlands Centre.

8. Contracts. To enter binding contracts and agreements, concerning matters within the Board of Director's areas of responsibility and subject to the budgetary limitations imposed on it, without the prior approval of the Council except with respect to employment contracts.

9. Record of Proceedings. To keep a record of its proceedings.

10. 28E Agreement Compliance. To manage and operate the Wetlands Centre and its associated facilities at all times in a manner consistent with the provisions of the 28E Agreement for the Continuation of the Driftless Area Wetlands Centre filed on August 28, 2013, as Document #M506463 in the office of the Iowa Secretary of State, and any subsequent amendments thereto.

23.04 COMPENSATION. The members of the Board of Directors shall serve without compensation but may receive reimbursement for actual expenses incurred in the performance of their duty.

23.05 LIMITATIONS. In addition to all other limitations set forth in this Chapter, the Board of Directors shall have no power to borrow money or pledge the credit of the City.

23.06 REPORTS. The Board of Directors shall make written reports to the Council of its activities on a monthly and annual basis and at such other times as may be requested by the Council. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental revenues and expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

(Ch. 23 - Ord. 372 – Dec. 13 Supp.)

[The next page is 145]

CHAPTER 30

POLICE DEPARTMENT

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

30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Reserve Peace Officers
30.12 Intergovernmental Agreements for Police Protection

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 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

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

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 RESERVE PEACE OFFICERS. The Council may, in accordance with Chapter 80D of the Code of Iowa, provide for the establishment of a force of reserve peace officers, and may limit the size of the reserve force.

1. Training. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as provided by Chapter 80D of the Code of Iowa.
2. Status. Reserve peace officers shall serve 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 officers.
3. 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 requirements for regular peace officers.
4. Uniforms and Benefits. Uniforms and benefits shall be provided to reserve peace officers as required by the Code of Iowa.

30.12 INTERGOVERNMENTAL AGREEMENTS FOR POLICE PROTECTION. The City may, upon approval of the Council, enter into one or more agreements with other public agencies pursuant to Chapter 28E of the Code of Iowa, whereby police protection is provided in the City, in whole or in part, by another entity. During the period any such agreement is in effect, the Police Chief shall be appointed as provided in the agreement and all provisions of this chapter, except this section, shall be of no force and effect. During any periods when the Agreement for the Creation of the MarMac Unified Law Enforcement District is in effect, the Mayor shall appoint commissioners from among the Mayor and Council members as provided in said Agreement. Except in cases where the Mayor appoints himself/herself as a commissioner, said appointments shall be subject to confirmation by a majority vote of the Council. The Mayor shall also designate one of said commissioners as liaison officer as provided in said Agreement. A commissioner, other than the Mayor, may be removed at any time by a majority vote of the Council.

(Code of Iowa, Sec. 28E.30)

[The next page is 151]

CHAPTER 35

FIRE PROTECTION

35.01 JOINT AGREEMENT. Fire Protection for the City is provided in accordance with the Fire Protection Agreement which was entered into on December 17, 1997, by the City of McGregor, the City of Marquette, Mendon Township and the McGregor Hook and Ladder Company, pursuant to Chapter 28E of the Code of Iowa, to provide combined services and response for emergency protection to the surrounding area.

[The next page is 185]

CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Disturbing the Peace

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

(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.

(Ord. 335 – Dec. 07 Supp.)

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])

40.04 UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled 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. A person who willingly joins in or remains a part of an unlawful assembly, or who joined a lawful assembly but willingly remains after the assembly becomes unlawful, knowing or having reasonable grounds to believe that it is such, commits an aggravated misdemeanor. *(Ord. 425 – Mar. 23 Supp.)*

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 DISTURBING THE PEACE. In order to preserve the peace, good order, and tranquility of the community, it is unlawful for any person to use obscene language or make threatening or obscene gestures, or make any loud, unnecessary or unusual noise, which disturbs the public peace or is injurious to the general welfare of the community. *(Ord. 309 – Oct. 04 Supp.)*

CHAPTER 41

PUBLIC HEALTH AND SAFETY

| | |
|--|---|
| 41.01 Distributing Dangerous Substances | 41.10 Throwing and Shooting |
| 41.02 False Reports to or Communications with Public Safety Entities | 41.11 Urinating and Defecating |
| 41.03 Refusing to Assist Officer | 41.12 Fireworks |
| 41.04 Harassment of Public Officers and Employees | 41.13 Swimming |
| 41.05 Interference with Official Acts | 41.14 Pseudoephedrine Restrictions |
| 41.06 Abandoned or Unattended Refrigerators | 41.15 Providing False Identification Information |
| 41.07 Antenna and Radio Wires | 41.16 Removal of an Officer's Communication or Control Device |
| 41.08 Barbed Wire and Electric Fences | 41.17 Failure to Assist |
| 41.09 Discharging Weapons | |

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 14 7 A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, medical examiner, or firefighter, or person performing bailiff duties, 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.

(Ord. 425 – Mar. 23 Supp.)

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

41.08 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.

41.09 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB guns or other firearms of any kind within the City limits

except by written consent of the Council or in the case of peace officers in the performance of duties.

2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

41.11 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.

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

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

(Code of Iowa, Sec. 727.2)

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

- A. Personal Injury: - \$250,000.00 per person.
- B. Property Damage: - \$50,000.00.

C. Total Exposure: - \$1,000,000.
(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.13 SWIMMING. No person shall swim, wade or bathe within a fifty (50) foot radius of any City boat ramp or dock, where the loading and unloading of boats takes place, within the City.

41.14 PSEUDOEPHEDRINE RESTRICTIONS. (Repealed by Ord. 319 – Sep. 05 Supp.)

41.15 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.

(Ord. 349 – Dec. 10 Supp.)

(Code of Iowa, Sec. 719.1A)

41.16 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.

(Ord. 375 – Dec. 13 Supp.)

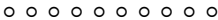
(Code of Iowa, Sec. 708.12)

41.17 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency

response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

(Ord. 425 – Mar. 23 Supp.)

(Code of Iowa, Sec. 727.12)



CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

[The next page is 199]

CHAPTER 43

RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

(REPEALED BY ORDINANCE NO. 339 – NOV. 09 SUPP.)

[The next page is 225]

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

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

1. 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 do 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])

2. Purchase, Consume, or Possess. 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])

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

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

(Ord. 382 – Dec. 14 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. “Arrest” means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.
 - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. “Peace Officer” means the same as defined in Section 801.4 of the Code of Iowa.
 - D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.
3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.04 Minors in Taverns

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

1. Definitions. For use in this section, the following terms are defined:

A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

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

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

D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other

responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. on Friday and Saturday.

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 non-secured setting. The officer

shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

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

enforcement officer's discretion, may issue the minor a citation for a first violation.

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 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 an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age 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)

(Ord. 417 – Nov. 20 Supp.)

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)

46.04 MINORS IN TAVERNS. It is unlawful for any minor (unless accompanied by a parent or legal guardian) to enter, remain in, or frequent a business establishment which sells liquor, wine or beer for on-premises consumption unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods.

o o o o o o o o o o

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering

47.05 Parks Closed
47.06 Camping
47.07 Parking
47.08 Animals

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of ten-thirty o'clock (10:30) p.m. and four-thirty o'clock (4:30) a.m. except by prior arrangement with or permission from the Mayor.

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

47.07 PARKING. All vehicles shall be parked in designated parking areas, and no vehicle shall be left unattended on any City park drive, road or highway except in the case of an emergency.

(Code of Iowa, Sec. 111.38)

47.08 ANIMALS.

1. No privately owned animal shall be allowed to run at large in any City park. Every such animal shall be deemed as running at large unless

the owner carries such animals or leads it by a leash or chain not exceeding six feet in length, or keeps it confined in or attached to a vehicle.

2. No horse or other animal shall be hitched or tied to any tree or shrub or in such a manner as to result in injury to City property.

[The next page is 237]

CHAPTER 48

DRUG PARAPHERNALIA

48.01 Purpose

48.02 Controlled Substance Defined

48.03 Drug Paraphernalia Defined

48.04 Determining Factors

48.05 Possession of Drug Paraphernalia

48.06 Manufacture, Delivery or Offering For Sale

48.01 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.

48.02 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.

48.03 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.

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

48.05 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.

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

[The next page is 255]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definitions

50.02 Nuisances Enumerated

50.03 Nuisances Prohibited

50.04 Nuisance Abatement

50.05 Notice to Abate: Contents

50.06 Method of Service

50.07 Abatement in Emergency

50.08 Abatement by City

50.09 Collection of Costs

50.10 Installment Payment of Cost of Abatement

50.11 Failure to Abate

50.12 Municipal Infraction Abatement Procedure

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

1. “Nuisance” means whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstacle to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property.
2. “Outdoor storage” means storage, placement or maintenance in any area not totally enclosed by structural walls and a roof.
3. “Property owner” means the contract purchaser if there is one of record, otherwise the record holder of legal title.

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

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
(Code of Iowa, Sec. 657.2[1])
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
(Code of Iowa, Sec. 657.2[2])
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
(Code of Iowa, Sec. 657.2[3])
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting

the same from its natural course or state, to the injury or prejudice of others.

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

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

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

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

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

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

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

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

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

9. **Grass, Weeds or Other Vegetation.** Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, and the growth of grass, weeds or other vegetation in any lawn or yard, including public parking or boulevard areas abutting private property, to an average height in excess of six (6) inches. As used in this subsection, "grass, weeds or other vegetation" does not include trees, shrubs and tended gardens and flower beds or any vegetation on land used for agricultural purposes.

(Code of Iowa, 657.2[12])

10. **Dutch Elm Disease.** Trees infected with Dutch Elm Disease.

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

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.

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

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.

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

13. **Wood or Boards.** The outdoor storage of any pile or collection of wood or boards except neatly stacked, pre-cut wood on premises containing a wood-burning furnace, stove or fireplace and intended for use therein. This subsection does not apply to any commercial lumber yard or to any other premises on which there is regularly and lawfully conducted a commercial or industrial activity in which such wood or boards are used, consumed or sold.

14. **Broken or Missing Windows or Doors.** Any building or structure containing a broken or missing external window or door or any other opening exposing the interior to the elements and/or permitting access to the interior by birds and animals. This subsection does not apply to carports and other structures designed for use without total enclosure.

15. **Containers Catching Precipitation.** The outdoor storage of any container or other object capable of catching and retaining precipitation. This subsection does not apply to bird baths and other customary lawn ornaments and landscaping items.

16. **Outdoor Storage of Other Items.** The outdoor storage for a continuous period in excess of seventy-two (72) hours of the following items when not normally required in the otherwise lawful day-to-day use of the premises where located:

- A. Building or construction materials.
- B. Abandoned or inoperable vehicles.
- C. Vehicles without current registration.
- D. Auto parts.
- E. Vehicle tires (with or without rims).
- F. Packing boxes.
- G. Pallets.
- H. Furniture not designed for outdoor use.

I. Household furnishings or equipment not designed for outdoor use, including carpeting, appliances and other typical household items.

J. Any other item, other than customary lawn ornaments, outdoor recreational equipment and landscaping items, not normally required in the otherwise lawful day-to-day use of the premises where located.

17. Attractive Nuisances. Any attractive nuisance dangerous to children in the form of abandoned or inoperable vehicles, abandoned, broken or neglected equipment or machinery, hazardous pools, ponds or excavations, and building material debris.

18. Unsightly and Deteriorated Conditions. Real property maintained in such condition as to be so defective, unsightly or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of surrounding properties.

19. Walls, Fences and Hedges. Any wall, fence or hedge in such condition as to constitute a hazard to persons or property.

20. Habitat for Rats. Any real property or any building or structure thereon that has become the habitat of feral rats.

21. Other. Any other condition, activity or circumstances declared to constitute a nuisance under any other provision of this Code of Ordinances.

50.03 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)

50.04 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice. For purposes of the abatement of a vegetation nuisance under subsection 9 of Section 50.02, a “reasonable time” for abatement shall be the

end of the fifth calendar day following the date on which the abatement notice is mailed.

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed within the time prescribed, the City will abate it and assess the costs against the property or file a municipal infraction civil citation.

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

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

50.07 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.09 after notice to the property owner under the applicable provisions of Sections 50.04, 50.05 and 50.06 and an opportunity for hearing.

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

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

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

50.09 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not

been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.10 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.

(Ord. 362 – Dec. 12 Supp.)

(Code of Iowa, Sec. 364.13)

50.11 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.

50.12 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

CHAPTER 51

JUNK VEHICLES ON PRIVATE PROPERTY

51.01 Definitions

51.02 Purpose

51.03 Junk Vehicles Declared a Nuisance

51.04 Exceptions

51.05 Junk Vehicle Storage Prohibited

51.06 Notice to Abate

51.07 Contents of Notice to Abate

51.08 Duty of Owner to Remove or Repair

51.09 Enforcement

51.10 Abatement by City

51.11 Collection of Cost of Abatement

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

1. “Junk vehicle” means any vehicle located on private property within the corporate limits of the City which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window or headlight, 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, door or trunk handle, steering wheel, trunk top, tailpipe, wheel or tire.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any unlicensed vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any vehicle which lacks such parts or is in such condition of repair or maintenance as to render it presently inoperable.
 - F. Not Being Operated. Any vehicle which has not been operated for a continuous period of nine (9) months or more.
 - G. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
2. “Police authority” means the Police Chief or any designee.
3. “Private property” means all real property other than streets and highways and other real property owned by the City.

4. “Unlicensed vehicle” means any vehicle to which there is not attached a valid current license as required by the laws of the State.

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

51.02 PURPOSE. The purpose of this chapter is to protect the health, safety and welfare of the citizens of the City by providing for the elimination of the open storage of junk vehicles and machinery except in authorized places.

51.03 JUNK VEHICLES DECLARED A NUISANCE. Except as provided in Section 51.04, it is hereby declared that the parking, leaving or storage of a junk vehicle upon private property within the City constitutes a threat to the health, safety and welfare of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa and Section 50.01 of this Code of Ordinances.

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to the following:

1. A vehicle in an enclosed building.
2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the zoning ordinance of the City, when necessary to the operation of said business enterprise.
3. A vehicle in an appropriate storage space or depository maintained by the City.

51.05 JUNK VEHICLE STORAGE PROHIBITED. Except as provided in Section 51.04, no person shall park, leave or store a junk vehicle on private property owned by said person or under said person’s legal control. The owner of private property or the person in legal possession of private property, if different that the owner, upon which a junk vehicle is located shall be deemed to be the owner of the junk vehicle and/or the person causing it to be parked, left or stored thereon.

51.06 NOTICE TO ABATE. Whenever the police authority finds a junk vehicle on private property within the City, such police authority shall deliver by certified mail a Notice to Abate to the following persons:

1. The last known registered owner of the vehicle;
2. The owner of the private property;
3. The occupant of the private property, if different from the owner.

The notice shall be deemed given when mailed to the last known addresses of the persons being notified.

51.07 CONTENTS OF NOTICE TO ABATE. The Notice to Abate shall:

1. Describe, to the extent possible, the year, make, model and color of the vehicle.
2. Describe the location of the vehicle.
3. State that the vehicle constitutes a nuisance under the provisions of this chapter.
4. State that the owner of the private property or the person in legal possession of the private property, if different from the owner, shall remove or repair the junk vehicle within twenty-one (21) days after the date of mailing.
5. State that if the nuisance is not abated as directed within 21 days, the City will abate the nuisance and assess the costs against the property owner or take other action to enforce compliance.

51.08 DUTY OF OWNER TO REMOVE OR REPAIR. The owner of the private property or the person in legal possession of the private property, if different from the owner, upon which a junk vehicle is stored in violation of the provisions of Section 51.05 shall, within twenty-one (21) days after notice to abate is given, remove the vehicle to a lawful place of storage, otherwise dispose of it in a lawful manner, or repair the defects that cause such vehicle to violate the provisions of this chapter.

51.09 ENFORCEMENT. If the private property owner or occupant notified to abate a junk vehicle nuisance fails to abate as directed, the police authority may do one or more of the following:

1. Impound the junk vehicle in the same manner provided in the case of abandoned vehicles under Chapter 80 of this Code of Ordinances.
2. File a municipal infraction complaint against the owner or occupant and request the imposition of a civil penalty and an abatement order.
3. File a criminal complaint against the owner or occupant.

51.10 ABATEMENT BY CITY. If the police authority impounds the junk vehicle as provided in Section 51.09, its owner may reclaim it within ten (10) days and it shall be released to the owner upon a showing of satisfactory proof of ownership and payment to the Clerk of all costs incurred by the City for the notice to abate, towing, preservation and storage, and upon a satisfactory showing that the owner has made arrangements to repair the vehicle or otherwise lawfully store or dispose of it. If not reclaimed within ten (10) days of impoundment, the vehicle shall be deemed abandoned and all procedures set forth in Chapter 80 of this Code of Ordinances shall become applicable the same as if the junk vehicle had been originally impounded as an abandoned vehicle.

51.11 COLLECTION OF COST OF ABATEMENT. An accurate account of the expense incurred by the City in abating a junk vehicle nuisance, including mailing, towing, preservation and storage expenses, or charges shall be maintained by the police authority. To the extent that such total expense is not recovered by the City from the proceeds of the sale of the vehicle, as provided in Chapter 80 of this Code of Ordinances, the owner of the private property on which the junk vehicle was located shall be liable for such expense. The Clerk shall mail a statement of such unrecovered expense to the private property owner and, if the amount shown by the statement is not paid within one month, the Clerk shall certify such costs to the County Auditor for assessment and collection with, and in the same manner as, general property taxes.

[The next page is 275]

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 Dog and Cat Waste |
| 55.07 Damage or Interference | 55.16 Tampering With A Rabies Vaccination Tag |
| 55.08 Annoyance or Disturbance | 55.17 Tampering With An Electronic Handling Device |
| 55.09 Vicious Animals | |

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

1. "Animal" means a nonhuman vertebrate; provided, however, that except for purposes of Section 55.02, animal shall not include cats.

2. "At large" means located off of property that is owned by the owner or which the owner has the legal right to occupy, or upon the public streets, alleys, sidewalks, public grounds, school grounds or parks within the City; except that an animal shall not be deemed to be at large if:

A. The animal is on the owner's premises, or the premises of a person given charge of the animal by the owner, and is restrained on those premises by an adequate protective fence or leash, cord, chain or other similar restraint of sufficient strength to restrain the animal and that does not allow the animal to go beyond the premises' real property line or onto public property; or

B. On public property, but restrained by a leash held by a person capable of restraining the animal; or

C. Restrained inside a motor vehicle.

(Ord. 371 – Dec. 13 Supp.)

3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

(Code of Iowa, Sec. 717.1)

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

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail

to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City. A first violation of this section is punishable as a simple misdemeanor. A second or subsequent violation of this section is punishable as either a simple misdemeanor or by a municipal infraction citation.

(Ord. 412 – Nov. 20 Supp.)

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

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

55.09 VICIOUS ANIMALS. It is unlawful for any person to harbor or keep a vicious animal within the City unless permitted under Section 56.03. An animal is deemed to be vicious according to the definition in Section 56.01(2). Any violation of this section is punishable by a municipal infraction citation.

(Ord. 412 – Nov. 20 Supp.)

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

(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 at the impoundment facility utilized by the City. All fines and/or any related costs incurred by the City or impoundment facility during impounding shall be paid prior to release of said animal.

(Ord. 412 – Nov. 20 Supp.)

55.14 DISPOSITION OF ANIMALS.

1. Unless a dangerous or vicious animal has been impounded and is subject to the procedures in Section 56.04, 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 (7) days,

the animal shall be disposed of in accordance with law or destroyed by euthanasia.

2. If a dangerous or vicious animal has been impounded and is subject to the procedures in Section 56.04, the animal shall remain impounded until a final determination has been made by the Magistrate Court or a court of appeal whether the animal is dangerous or vicious and the relevant appeal deadline has expired.

(Section 55.14 – Ord. 412 – Nov. 20 Supp.)

55.15 DOG AND CAT WASTE. Any person who shall walk a dog or cat on public or private property shall provide for the disposal of the solid waste material excreted by the dog or cat by immediate removal of the waste except when the dog or cat is on the owner's or keeper's property and except for dogs properly trained and certified to assist persons with disabilities while such dogs are acting in such capacity.

(Ord. 365 – Dec. 12 Supp.)

(Former Section 55.15 Repealed by Ord. 366 – Dec. 12 Supp.)

55.16 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful for a person to knowingly remove, disable, damage, or destroy a rabies vaccination tag attached to an item worn by the dog, including but not limited to a collar, harness, or vest. This section shall not apply to the owner of the dog, an agent of the owner, a person authorized to take action by the owner, a peace officer, a licensed veterinarian, or an animal shelter or pound.

(Iowa Code, Sec. 351.45)

(Ord. 419 – Nov. 20 Supp.)

55.17 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful for a person to knowingly remove, disable, damage, or destroy an electronic device designed and used to maintain custody or control of a dog or to modify a dog's behavior attached to an item worn by the dog, including but not limited to a collar, harness, or vest. This section shall not apply to the owner of the dog, an agent of the owner, a person authorized to take action by the owner, a peace officer, a licensed veterinarian, or an animal shelter or pound.

(Iowa Code, Sec. 351.46)

(Ord. 419 – Nov. 20 Supp.)

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Keeping of Vicious Animals Prohibited

56.04 Seizure, Impoundment and Disposition

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

1. "Dangerous animal" means:
 - A. Badgers, wolverines, weasels, skunk, and mink;
 - B. Raccoons;
 - C. Bats;
 - D. Scorpions.
2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten more than one person during the animal's lifetime; (b) has bitten one person on two or more occasions during the animal's lifetime; (c) has attacked any domestic animal or fowl without provocation, causing injury or death; or (d) any animal trained for fighting or animal baiting or is owned or kept for such purposes.

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

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

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

56.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

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

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, a peace 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 dangerous or vicious animal in the City, a peace officer shall order the person named in the complaint to safely remove such animal 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 the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case a peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. A person who fails to comply with an order to remove a dangerous animal or vicious animal issued by a peace officer pursuant to this chapter shall receive a municipal infraction citation according to Section 55.09 of the City Code.

4. Following a final determination by the Magistrate Court or a court of appeal and the expiration of the relevant appeal deadline that the animal is determined to be a dangerous animal or vicious animal, the person owning, sheltering, harboring, or keeping such dangerous or vicious animal shall remove such animal from the City or 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 order is not complied with within three (3) days of its issuance, a peace officer is authorized to seize, impound or destroy such dangerous or vicious animal.

(Ch. 56 – Ord. 413 – Nov. 20 Supp.)

[The next page is 283]

CHAPTER 57

REGISTRATION AND VACCINATION

57.01 Registration Required

57.03 Immunization

57.02 Registration Fees

57.01 REGISTRATION REQUIRED.

1. Every owner of a dog over the age of six months shall register their dog with the City Clerk.
2. Every new owner shall register within 10 days after obtaining a dog over six months of age or at the time the dog becomes six months old.
3. The owner of a dog for which a registration is required shall apply to the Clerk on form provided by the City.
4. The form shall state the breed, sex, age, color, markings, and name, if any, of the dog, the address of the owner, a photo of the dog, and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog shall be revaccinated.
5. A late fee of \$25.00 shall be charged to every owner found to be in violation of this section.

57.02 REGISTRATION FEES. The registration fee shall be \$10.00.

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

(Ch. 57 – Ord. 426 – Mar. 23 Supp.)

[The next page is 301]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports
60.06 Peace Officer's Authority
60.07 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Marquette Traffic Code.”

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.

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

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

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

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

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Mar-Mac Unified Law Enforcement Officers.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.
3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.
4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

o o o o o o o o o o

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Street Superintendent 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 Street Superintendent shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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 Tampering with Vehicle
62.07 Obstructing View at Intersections
62.08 Flood Dike
62.09 Engine Back-pressure Brakes Prohibited
62.10 Rubber Tired Vehicles

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

1. Section 321.17 — Misdemeanor to violate registration provisions.
2. Section 321.20B — Proof of security against liability.
3. Section 321.32 — Registration card, carried and exhibited; exception.
4. Section 321.37 — Display of plates.
5. Section 321.38 — Plates, method of attaching, imitations prohibited.
6. Section 321.79 — Intent to injure.
7. Section 321.91 — Penalty for abandonment.
8. Section 321.98 — Operation without registration.
9. Section 321.99 — Fraudulent use of registration.
10. Section 321.174 — Operators licensed.
11. Section 321.174A — Operation of motor vehicles with expired license.
12. Section 321.180 — Instruction permits.
13. Section 321.180B — Graduated driver's licenses for persons aged fourteen through seventeen.
14. Section 321.193 — Restricted licenses.
15. Section 321.194 — Special minor's licenses.

16. Section 321.216 — Unlawful use of license and nonoperator's identification card.
17. Section 321.216B — Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
18. Section 321.216C — Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
19. Section 321.219 — Permitting unauthorized minor to drive.
20. Section 321.220 — Permitting unauthorized person to drive.
21. Section 321.221 — Employing unlicensed chauffeur.
22. Section 321.222 — Renting motor vehicle to another.
23. Section 321.223 — License inspected.
24. Section 321.224 — Record kept.
25. Section 321.229 — Obedience to peace officers.
26. Section 321.232 — Radar jamming devices; penalty.
27. Section 321.234A — All-terrain vehicles.
28. Section 321.235A — Electric personal assistive mobility devices.
29. Section 321.247 — Golf cart operation on City streets.
30. Section 321.257 — Official traffic control signal.
31. Section 321.259 — Unauthorized signs, signals or markings.
32. Section 321.262 — Damage to vehicle.
33. Section 321.263 — Information and aid.
34. Section 321.264 — Striking unattended vehicle.
35. Section 321.265 — Striking fixtures upon a highway.
36. Section 321.275 — Operation of motorcycles and motorized bicycles.
37. Section 321.276 — Use of electronic communication device while driving; text-messaging.
38. Section 321.277 — Reckless driving.
39. Section 321.277A — Careless driving.
40. Section 321.278 — Drag racing prohibited.
41. Section 321.281 — Actions against bicyclists.

42. Section 321.284 — Open containers in motor vehicles – drivers.
43. Section 321.284A — Open containers in motor vehicles – passengers.
44. Section 321.288 — Control of vehicle; reduced speed.
45. Section 321.295 — Limitation on bridge or elevated structures.
46. Section 321.297 — Driving on right-hand side of roadways; exceptions.
47. Section 321.298 — Meeting and turning to right.
48. Section 321.299 — Overtaking a vehicle.
49. Section 321.302 — Overtaking on the right.
50. Section 321.303 — Limitations on overtaking on the left.
51. Section 321.304 — Prohibited passing.
52. Section 321.306 — Roadways laned for traffic.
53. Section 321.307 — Following too closely.
54. Section 321.308 — Motor trucks and towed vehicles; distance requirements.
55. Section 321.309 — Towing; convoys; drawbars.
56. Section 321.310 — Towing four-wheel trailers.
57. Section 321.311 — Turning at intersections.
58. Section 321.312 — Turning on curve or crest of grade.
59. Section 321.313 — Starting parked vehicle.
60. Section 321.314 — When signal required.
61. Section 321.315 — Signal continuous.
62. Section 321.316 — Stopping.
63. Section 321.317 — Signals by hand and arm or signal device.
64. Section 321.319 — Entering intersections from different highways.
65. Section 321.320 — Left turns; yielding.
66. Section 321.321 — Entering through highways.
67. Section 321.322 — Vehicles entering stop or yield intersection.
68. Section 321.323 — Moving vehicle backward on highway.

69. Section 321.323A – Approaching certain stationary vehicles.
70. Section 321.324 — Operation on approach of emergency vehicles.
71. Section 321.324A — Funeral processions.
72. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.
73. Section 321.330 — Use of crosswalks.
74. Section 321.332 — White canes restricted to blind persons.
75. Section 321.333 — Duty of drivers.
76. Section 321.340 — Driving through safety zone.
77. Section 321.341 — Obedience to signal of train.
78. Section 321.342 — Stop at certain railroad crossings; posting warning.
79. Section 321.343 — Certain vehicles must stop.
80. Section 321.344 — Heavy equipment at crossing.
81. Section 321.344B — Immediate safety threat – penalty.
82. Section 321.353 — Stop before crossing sidewalk – right of way.
83. Section 321.354 — Stopping on traveled way.
84. Section 321.359 — Moving other vehicle.
85. Section 321.362 — Unattended motor vehicle.
86. Section 321.363 — Obstruction to driver’s view.
87. Section 321.364 — Preventing contamination of food by hazardous material.
88. Section 321.365 — Coasting prohibited.
89. Section 321.367 — Following fire apparatus.
90. Section 321.368 — Crossing fire hose.
91. Section 321.369 — Putting debris on highway.
92. Section 321.370 — Removing injurious material.
93. Section 321.371 — Clearing up wrecks.
94. Section 321.372 — School buses.
95. Section 321.381 — Movement of unsafe or improperly equipped vehicles.

96. Section 321.381A — Operation of low-speed vehicles.
97. Section 321.382 — Upgrade pulls; minimum speed.
98. Section 321.383 — Exceptions; slow vehicles identified.
99. Section 321.384 — When lighted lamps required.
100. Section 321.385 — Head lamps on motor vehicles.
101. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
102. Section 321.387 — Rear lamps.
103. Section 321.388 — Illuminating plates.
104. Section 321.389 — Reflector requirement.
105. Section 321.390 — Reflector requirements.
106. Section 321.392 — Clearance and identification lights.
107. Section 321.393 — Color and mounting.
108. Section 321.394 — Lamp or flag on projecting load.
109. Section 321.395 — Lamps on parked vehicles.
110. Section 321.398 — Lamps on other vehicles and equipment.
111. Section 321.402 — Spot lamps.
112. Section 321.403 — Auxiliary driving lamps.
113. Section 321.404 — Signal lamps and signal devices.
114. Section 321.404A — Light-restricting devices prohibited.
115. Section 321.405 — Self-illumination.
116. Section 321.408 — Back-up lamps.
117. Section 321.409 — Mandatory lighting equipment.
118. Section 321.415 — Required usage of lighting devices.
119. Section 321.417 — Single-beam road-lighting equipment.
120. Section 321.418 — Alternate road-lighting equipment.
121. Section 321.419 — Number of driving lamps required or permitted.
122. Section 321.420 — Number of lamps lighted.
123. Section 321.421 — Special restrictions on lamps.
124. Section 321.422 — Red light in front.

125. Section 321.423 — Flashing lights.
126. Section 321.430 — Brake, hitch and control requirements.
127. Section 321.431 — Performance ability.
128. Section 321.432 — Horns and warning devices.
129. Section 321.433 — Sirens, whistles, and bells prohibited.
130. Section 321.434 — Bicycle sirens or whistles.
131. Section 321.436 — Mufflers, prevention of noise.
132. Section 321.437 — Mirrors.
133. Section 321.438 — Windshields and windows.
134. Section 321.439 — Windshield wipers.
135. Section 321.440 — Restrictions as to tire equipment.
136. Section 321.441 — Metal tires prohibited.
137. Section 321.442 — Projections on wheels.
138. Section 321.444 — Safety glass.
139. Section 321.445 — Safety belts and safety harnesses — use required.
140. Section 321.446 — Child restraint devices.
141. Section 321.449 — Motor carrier safety regulations.
142. Section 321.450 — Hazardous materials transportation.
143. Section 321.454 — Width of vehicles.
144. Section 321.455 — Projecting loads on passenger vehicles.
145. Section 321.456 — Height of vehicles; permits.
146. Section 321.457 — Maximum length.
147. Section 321.458 — Loading beyond front.
148. Section 321.460 — Spilling loads on highways.
149. Section 321.461 — Trailers and towed vehicles.
150. Section 321.462 — Drawbars and safety chains.
151. Section 321.463 — Maximum gross weight.
152. Section 321.465 — Weighing vehicles and removal of excess.
153. Section 321.466 — Increased loading capacity - reregistration.

(Ord. 352 – Dec. 10 Supp.)

154. Section 321.25 — Application for registration and title – cards attached.
155. Section 321.34 — Plates or validation sticker furnished – retained by owner – special plates.
156. Section 321.41 — Change of address or name or fuel type.
157. Section 321.45 — Title must be transferred with vehicle.
158. Section 321.104 — Penal offenses against title law.
159. Section 321.178 — Driver education – restricted license – reciprocity.
160. Section 321.260 — Interference with devices, signs, or signals – unlawful possession – traffic signal preemption devices.
161. Section 321.305 — One-way roadways and rotary traffic islands.
162. Section 321.449A — Rail crew transport drivers.
163. Section 321.449B — Motor carrier safety rules.
(Subsections 154-163 – Oct. 416 – Nov. 20 Supp.)

62.02 PLAY STREETS DESIGNATED. The Council shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 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.

62.08 FLOOD DIKE. No person shall operate a motorized vehicle on any flood dike in the City except City officers and employees and persons authorized or directed by City officers or employees.

62.09 ENGINE BACK-PRESSURE BRAKES PROHIBITED. No person operating a motor vehicle within the City shall use an engine back-pressure braking system or mechanical exhaust device designed to aid in the braking or deceleration of the motor vehicle.

62.10 RUBBER TIRED VEHICLES. Only rubber tired vehicles shall be allowed upon the streets and alleys within the City, except in the case of vehicles in parades.

CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District — Twenty (20) miles per hour.
2. Residence or School District — Twenty-five (25) miles per hour.
3. Suburban District — Forty-five (45) miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Fifth Street north of Brown Street.
2. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Fifth Street from South Street to Brown Street.
 - B. On South Street from Second Street to Fifth Street.
 - C. On Iowa Highway 76 from a point one hundred (100) feet north of North Street to North Street.
3. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Business Highway 18 from the south corporate limits to the U.S. Highway 18 on/off ramp.
4. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Iowa Highway 76 from a point one hundred (100) feet north of North Street to a point three-tenths (3/10) of a mile north of North Street.
5. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Highway 18 from County Road B-45 to the east corporate limits.
6. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Iowa Highway 76 from a point three-tenths (3/10) of a mile north of North Street to the north corporate limits.
7. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On U.S. Highway 18 from the west corporate limits to County Road B-45.

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)

o o o o o o o o o

CHAPTER 64
TURNING REGULATIONS

(Reserved for Future Use)

o o o o o o o o o

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Three-Way Stop Intersections
65.04 Yield Required

65.05 School Stops
65.06 Stop When Traffic Is Obstructed
65.07 Yield to Pedestrians in Crosswalks
65.08 Stop at Exits to Public Alleys and Driveways

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

(Code of Iowa, Sec. 321.345)

1. U.S. Highway 18, from the west City limits to the east City limits.
2. First Street, from North Street to the south City limits.

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

(Code of Iowa, Sec. 321.345)

1. Edgar Street. Vehicles traveling west on Edgar Street shall stop at Pleasant Ridge Road;
2. Edgar Street. Vehicles traveling east on Edgar Street shall stop at Third Street;
3. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Brown Street;
4. Granger Street. Vehicles traveling east on Granger Street shall stop at Second Street;
5. Green Street. Vehicles traveling east on Green Street shall stop at Second Street;
6. Third Street. Vehicles traveling south on Third Street shall stop at South Street;
7. Pleasant Drive. Vehicles traveling east on Pleasant Drive shall stop at Pleasant Ridge Road;
8. Second Street. Vehicles traveling north on Second Street shall stop at North Street;
9. Brown Street. Vehicles traveling east on Brown Street shall stop at Second Street.

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

1. Edgar Street and Second Street. Vehicles approaching the intersection of Edgar Street and Second Street from the north, south and east shall stop before entering such intersection.

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

(Code of Iowa, Sec. 321.345)

1. Fifth Street. Vehicles traveling south on Fifth Street shall yield at South Street;
2. Green Street. Vehicles traveling west on Green Street shall yield at Third Street.

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

(Code of Iowa, Sec. 321.249)

65.06 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.

65.07 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)

65.08 STOP AT EXITS TO PUBLIC ALLEYS AND DRIVEWAYS. The driver of a vehicle emerging from a public alley, public parking lot or other public driveway shall stop such vehicle immediately prior to driving onto the sidewalk area, if a sidewalk exists, or onto the street, if there is no sidewalk, and shall yield the right of way to all pedestrian traffic on the sidewalk and to all vehicles approaching on the street which the driver's vehicle is entering.

o o o o o o o o o o

o o o o o o o o o

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Weight Limit on Edgar Street

66.03 Truck Traffic Limitations on North Street

66.04 Heavy Vehicle Restrictions

66.05 Load Limits on Bridges

66.06 Weight Limit on Water Street

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 WEIGHT LIMIT ON EDGAR STREET.

1. Except as provided in subsection 2 of this section, no person shall drive, operate or otherwise move a vehicle weighing ten (10) tons or more, when loaded or empty, over or upon Edgar Street between its intersections with First Street and Second Street.

2. A vehicle weighing ten (10) tons or more may be driven or moved over or upon Edgar Street between First Street and Second Street under the following circumstances:

A. When traveling to or from the vehicle's fixed terminal located on the restricted block of Edgar Street. A fixed terminal shall include the regular place of business of the owner or operator of the vehicle at which the presence of the vehicle is required for purposes of loading or unloading cargo or passengers, maintenance, repair or refueling.

B. When traveling to or from a scheduled or definite stop within said restricted block of Edgar Street for the purpose of loading or unloading cargo or passengers.

3. The owner of a vehicle or any person employing or otherwise directing the driver or operator of a vehicle shall not require or knowingly permit a vehicle weighing ten (10) tons or more, when loaded or empty, to be driven, operated or otherwise moved over or upon Edgar Street between its intersections with First Street and Second Street.

4. For purposes of this section, a self-propelled vehicle and any trailer or other vehicle towed or pushed by it shall, collectively, be deemed a single vehicle, and the combined weight of such self-propelled

vehicle and trailer, including any load or cargo thereon, shall be the weight of such vehicle.

66.03 TRUCK TRAFFIC LIMITATIONS ON NORTH STREET.

1. Except as provided in subsection 2 of this section, no person shall drive, operate or otherwise move a truck or tractor-trailer combination having tandem rear axles over or upon North Street west of its intersection with First Street.

2. A truck or tractor-trailer combination having tandem rear axles may be driven or moved over or upon North Street west of its intersection with First Street under the following circumstances:

A. When traveling to or from the vehicle's fixed terminal located on the restricted block of North Street. A fixed terminal shall include the regular place of business of the owner or operator of the vehicle at which the presence of the vehicle is required for purposes of loading or unloading cargo or passengers, maintenance, repair or refueling.

B. When traveling to or from a scheduled or definite stop within the restricted portion of North Street for the purpose of loading or unloading cargo or passengers.

3. The owner of a vehicle or any person employing or otherwise directing the driver or operator of a vehicle shall not require or knowingly permit a truck or a tractor-trailer combination having tandem rear axles to be driven, operated or otherwise moved over or upon North Street west of its intersection with First Street.

66.04 HEAVY VEHICLE RESTRICTIONS. No person shall drive, operate or park, or cause to be driven, operated or parked, a vehicle of any type having a total weight, loaded or empty and including any attached trailer, in excess of five (5) tons within, on or across any park or other public property, including but not limited to land beneath the U.S. Highway 18 bridge and all public parking lots. However, the prohibition of this section shall not apply to the following:

1. The traveled portions of streets and highways.

2. Areas in which official signs indicate the parking of heavy vehicles, or certain types of heavy vehicles, is permitted. The Council shall by resolution identify any such areas and the Mayor shall erect appropriate signs.

3. Vehicles owned or leased by any governmental unit.

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

(Code of Iowa, Sec. 321.471)

66.06 WEIGHT LIMIT ON WATER STREET.

1. No person shall drive, operate or otherwise move a vehicle weighing three (3) tons (6,000 pounds) or more, when loaded or empty, over or upon Water Street between the Marquette Landing parking lot and its intersection with North Street.
2. The owner of a vehicle or any person employing or otherwise directing the driver or operator of a vehicle shall not require or knowingly permit a vehicle weighing three (3) tons (6,000 pounds) or more, when loaded or empty, to be driven, operated or otherwise moved over or upon Water Street between the Marquette Landing parking lot and its intersection with North Street.
3. For purposes of this section, a self-propelled vehicle and any trailer or other vehicle towed or pushed by it shall be deemed separate vehicles and the weight limitation imposed under this section shall apply separately to each such vehicle.

(Ord. 369 – Dec. 13 Supp.)

[The next page is 331]

CHAPTER 67

PEDESTRIANS

67.01 Hitchhiking

67.02 Pedestrian Crossing

67.03 Use Sidewalks

67.01 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)

67.02 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)

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

o o o o o o o o o

CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. The west 375 feet of Edgar Street between First Street and Second Street shall be westbound only. *(Ord. 306 – Oct. 04 Supp.)*

o o o o o o o o o

CHAPTER 69

PARKING REGULATIONS

| | |
|--|--|
| 69.01 Park Adjacent to Curb | 69.10 Winter Parking |
| 69.02 Park Adjacent to Curb - One-way Street | 69.11 Snow Routes |
| 69.03 Angle Parking | 69.12 Snow Removal – Temporary No Parking |
| 69.04 Angle Parking – Manner | 69.13 Riverfront Parking |
| 69.05 Parking for Certain Purposes Illegal | 69.14 Street Cleaning |
| 69.06 Parking Prohibited | 69.15 Trailer Parking Limited |
| 69.07 Persons With Disabilities Parking | 69.16 Restricted Parking Lot |
| 69.08 No Parking Zones | 69.17 Emergency Evacuation Route No Parking Zone |
| 69.09 Truck Parking Limited | |

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Old Bridge Approach on the north side.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than seventy-two (72) hours or for any of the following principal purposes:

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

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358 [5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236 [1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358 [1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358 [2])
6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358 [3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358 [4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358 [8])

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

(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 shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

19. Where Official Signs Prohibit. At any place where official signs prohibit stopping and parking.

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

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

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

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

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

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

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

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

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

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

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

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

1. Edgar Street, on both sides, from First Street west to Monona Road;
2. First Street, on both sides, from the U.S. Highway 18 bridge south to the south City limits;
3. Brown Street, on the north side, from Second Street to Fifth Street;
4. South Street, on the south side, from Second Street to Fifth Street.
5. Anti-Monopoly Street, on both sides, from First Street to Second Street.
6. Fifth Street, on the west side, from Brown Street to South Street.
7. Pleasant Ridge Road, on both sides, from U.S. Highway 18 north to the north City limits.
8. US Highway 18, on both sides, from the Mississippi River bridge west to the US Highway 18 mile marker 304.
9. US Business Highway 18 ramp, on both sides, from the intersection with US Highway 18 south and east to the intersection with First Street (IA Highway 76).

(Ord. 370 – Dec. 13 Supp.)

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall apply to any vehicle requiring more than a four-ton license and greater than 10 feet in height.

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

1. No such vehicle shall be left standing or parked upon any street or alley between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation.

2. North Street: Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle, on North Street.

(Section 69.09 – Ord. 403 – Apr. 19 Supp.)

69.10 WINTER PARKING. In order to facilitate the plowing and removal of snow from certain streets, parking is hereby prohibited from November 1 until March 31 of the following year between the hours of 2:00 a.m. and 8:00 a.m. as follows:

1. On the odd numbered (south) side of North Street and on the even-numbered (west) side of Second Street on Tuesdays, Thursdays, Saturdays, and Sundays.
2. On the even-numbered (north) side of North Street and on the odd-numbered (east) side of Second Street on Mondays, Wednesdays, and Fridays.

(Ord. 401 – Sep. 17 Supp.)

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

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

69.12 SNOW REMOVAL – TEMPORARY NO PARKING. To facilitate the removal of snow, special and temporary no parking areas will be established at the direction of the Street Superintendent by placement of temporary “NO PARKING, SNOW REMOVAL” signs along the street. No person shall park any vehicle in violation of such temporary no parking signs.

69.13 RIVERFRONT PARKING. No person shall park a vehicle in the area between the flood dike and the river where official signs prohibit parking or on any flood dike in the City.

69.14 STREET CLEANING. To facilitate street cleaning, special temporary no parking areas will be established at the direction of the Street Superintendent by placement of temporary “NO PARKING, STREET CLEANING” signs along the street. These signs shall be placed the evening prior to work beginning and shall not be enforced until 5:00 a.m. the morning following the placement of signs. This parking restriction will stay in effect until the signs are removed. No person shall park any vehicle in violation of such no parking signs.

(Ord. 316 – Sep. 05 Supp.)

69.15 TRAILER PARKING LIMITED. No person shall park a trailer in violation of the following restrictions:

1. On North Street at any time.
2. On any City property, including but not limited to streets, between the hours of 11:00 p.m. and 6:00 a.m. on the following day.

For purposes of this section, “trailer” shall mean and include every vehicle, including boat trailers, without motive power designed for carrying persons or property and for being drawn by a motor vehicle, but excluding trailers attached to a towing vehicle and also excluding commercial trailers the presence of which is necessary in support of temporary activity on nearby private property, such as construction work.

(Ord. 360 – Dec. 12 Supp.)

69.16 RESTRICTED PARKING LOT. Except as provided in subsection 7, no person shall park a motor vehicle in the City’s north riverfront parking lot unless there is affixed to the vehicle a parking permit issued as provided in this section:

1. The parking permit fee shall be \$10.00 each for residents and property owners of Marquette and \$50.00 each for non-residents and non-property owners of Marquette.
2. Each permit shall be issued for a specific motor vehicle and shall not be transferrable from one vehicle to another.
3. No more than two (2) vehicle parking permits shall be issued per property owner or resident.
4. Permits shall be issued by city hall with the applicable fee and upon written application and proof of residency or property ownership.
5. All permits shall be issued for the current calendar year and shall expire on December 31. A new application may be made any time after January 1 of each year.
6. The permit shall be attached and visible through the windshield of the vehicle.
7. A motor vehicle permit issued under this section shall also be valid for any attached trailer.
8. No vehicle shall park in this area for longer than 24 consecutive hours.

Upon conviction, any person violating provisions of this section shall be subject to a fine of \$100.

(Ord. 394 – Sep. 17 Supp.)

69.17 EMERGENCY EVACUATION ROUTE NO PARKING ZONE.

No one shall stop, stand or park a vehicle that would restrict access to the entrance of the Emergency Evacuation Route at the south end of Walnut Street except in compliance with the direction of a peace officer or traffic control signal.

(Ord. 405 – Apr. 19 Supp.)

[The next page is 355]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Except as provided in this section, admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars (\$25.00) for all violations, except emergency route violations, disabilities parking violations, riverfront parking violations and restricted parking lot violations. If such fine is not paid within thirty (30) days, it shall be increased to thirty-five dollars (\$35.00). The simple notice of a fine for emergency evacuation route violations (Section 69.17) is two hundred fifty dollars (\$250.00), the simple notice of a fine for disabilities parking violations (Code Section 69.07), riverfront parking violations (Code Section 69.13), and restricted parking lot violations (Code Section 69.16) is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

(Ord. 418 – Nov. 20 Supp.)

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 Seventy-two Hour Period. When any vehicle is left parked for a continuous period of seventy-two (72) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

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

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

[The next page is 359]

CHAPTER 74

ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES

| | |
|--|---|
| 74.01 Purpose | 74.06 Prohibited Areas |
| 74.02 Definitions | 74.07 Exceptions |
| 74.03 General Regulations | 74.08 Other Requirements and Restrictions |
| 74.04 Operation on City Streets and Alleys | 74.09 Accident Reports |
| 74.05 Operation on Primary and Secondary Roads | 74.10 Violations |

74.01 PURPOSE. The purpose of this chapter is to permit the operation of all-terrain vehicles and off-road utility vehicles on certain highways, streets, and alleys in the City, as authorized by Iowa Code Section 321.247, as amended, and regulating their use. This chapter applies whenever an all-terrain vehicle or off-road utility vehicle is operated on any street or alley or on any other public or private property, subject to the restrictions stated herein.

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

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

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

2. “Off-road utility vehicle” or “UTV” means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight of not more than 1,900 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

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.

(Code of Iowa, Sec. 321I.1[17][a])

3. “Street” means only that portion of the street between the curbs or, in the absence of curbs, only the traveled portion of the street.

74.03 GENERAL REGULATIONS. No person shall operate an ATV or UTV within the City in violation of Iowa Code Chapter 321I 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.

74.04 OPERATION ON CITY STREETS AND ALLEYS. A person operating an ATV or UTV on a City street or alley shall have a valid driver’s license and operate the vehicle in accordance with posted speed limits. The operator, except as specified in Iowa Code Section 321.234A(1)(a), shall also be a least eighteen years of age and have financial liability coverage in effect for the vehicle and carry proof of such financial liability coverage in accordance with Iowa Code Section 321.20B.

74.05 OPERATION ON PRIMARY AND SECONDARY ROADS.

1. A person operating an ATV or UTV on a primary or secondary road shall operate the vehicle at speeds of thirty-five miles per hour or less but otherwise follow the same requirements articulated in Section 74.04.

2. ATVs and UTVs may be operated on Iowa Highway 76 within the City’s corporate limits according to the applicable traffic code provisions.

3. ATVs and UTVs may not make a direct crossing of U.S. Highway 18 and shall instead cross underneath the highway via First Street.

4. ATVs and UTVs may be operated on U.S. Highway 18 over the most direct and accessible route between an ATV park or trail, a secondary road on which vehicles are authorized to operate, a City street on which vehicles are authorized to operate, and the vehicle operator’s residence.

5. ATVs and UTVs may be operated on any secondary road within the City’s corporate limits according to the applicable traffic code provisions.

74.06 PROHIBITED AREAS.

1. ATVs and UTVs shall not be operated on snowmobile trails except where designated.

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

2. ATVs and UTVs shall not be operated in any public park, public sidewalk, playground, or upon any other City-owned property without the express permission of the City.

3. ATVs and UTVs shall not be operated on an operating railroad right-of-way, but an ATV or UTV may be driven directly across a railroad right-of-way only at an established crossing and, not withstanding 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[1][h])

4. ATVs and UTVs shall not be operated on any City-owned evacuation route and land adjacent to and City-owned land surrounding the evacuation route.

74.07 EXCEPTIONS. The prohibition set forth in Section 74.06 shall not apply to the following:

1. The operation is incidental to the vehicle's use for the purpose of surveying by a licensed engineer or land surveyor.

2. Operation of the vehicle by an employee or agent of a political subdivision of the State of Iowa or a public utility.

3. The operation by an employee or agent of a public agency for the purpose of providing emergency services or rescue.

74.08 OTHER REQUIREMENTS AND RESTRICTIONS.

1. A person shall not drive or operate an ATV or UTV within the City's corporate limits between the hours of twelve o'clock (12:00) midnight and five o'clock (5:00) a.m. except in an emergency.

2. An ATV or UTV operated on a primary road, secondary road, street, or alley shall be equipped with the parts, lamps, and other equipment in proper condition and adjustment as required for other motor vehicles, including but not limited to the parts, lamps, and equipment required under Iowa Code Sections 321.386, 321.387, 321.404, 321.432, and 321.437.

(Code of Iowa, Sec. 321.234A[2a])

3. ATVs and UTVs operated on a primary road, secondary road, street, or alley shall display lighted headlamps as provided in Iowa Code Section 321.415 at all times while the vehicle is operated on a highway.

(Code of Iowa, Sec. 321.384[1])

4. Any ATV or UTV driven or operated on a primary road, secondary road, street, or alley shall be equipped with at least one and not more than two headlamps which shall comply with the requirements of Iowa Code Section 321.

74.09 ACCIDENT REPORTS. If an ATV or UTV 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 law enforcement. If the accident occurred on public land, public ice, or a designated riding trail under the jurisdiction of the Department of Natural Resources, the operator shall file with the Department a report of the accident, within seventy-two hours, containing information as the Department may require. All other accidents shall be reported as required under Iowa Code Section 321.266.

(Code of Iowa, Sec. 321I.11)

74.10 VIOLATIONS. The operation of an ATV or UTV in violation of any of the provisions of this chapter may be charged as a simple misdemeanor or may be subject to the penalties set out in Iowa Code Sections 321I.15A and 321I.36.

(Ch. 74 – Ord. 424 – Mar. 23 Supp.)

[The next page is 365]

CHAPTER 75

SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Hours of Operation

75.06 Negligence

75.07 Accident Reports

75.08 Dead Man Throttle

75.09 Minimum Snow and Ice Cover

75.10 Prohibited Streets

75.11 Violation and Penalty

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of snowmobiles within the City.

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

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

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

75.03 GENERAL REGULATIONS. No person shall operate 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)

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

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

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

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

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations

where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

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

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

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

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

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

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

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

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

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

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

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.

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

7. Incidental Use. On streets between a place where a snowmobile may be lawfully operated and the residence of the operator or owner of the snowmobile, the place of storage for the snowmobile, or a commercial establishment where a snowmobile is to be refueled, serviced or repaired. Any snowmobile operation on City streets under this exception shall be

restricted to the shortest route between an area of permitted snowmobile use and a permitted destination, as provided in this subsection. A person operating a snowmobile on a street other than a designated snowmobile trail or route shall have the burden of proving that such operation complies with the exception stated in this subsection.

75.05 HOURS OF OPERATION. No person shall operate a snowmobile on public or private property anywhere within the City between the hours of twelve o'clock (12:00) midnight and seven o'clock (7:00) a.m. except in an emergency.

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

(Code of Iowa, Sec. 321G.18)

75.07 ACCIDENT REPORTS. Whenever a 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)

75.08 DEAD MAN THROTTLE. No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

75.09 MINIMUM SNOW AND ICE COVER. No person shall operate a snowmobile on any public property within the City, other than streets, unless the snow and ice cover on such property is not less than four (4) inches in depth. No person shall operate a snowmobile on any street unless the snow and ice cover is not less than one (1) inch in depth. This section shall not be deemed to enlarge the areas or places in which snowmobiles may be operated, but applies to all public property, including streets, where snowmobile operation is otherwise permitted under this chapter.

75.10 PROHIBITED STREETS. Snowmobiles shall not be operated on City owned evacuation route, land adjacent to and City owned land surrounding the evacuation route.

75.11 VIOLATION AND PENALTY. Any person guilty of violating the provisions herein may be charged as a simple misdemeanor.

(Ch. 75 – Ord. 424 – Mar. 23 Supp.)

[The next page is 371]

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

[The next page is 381]

CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

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

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper (any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles) 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.

(Ord. 343 – Nov. 09 Supp.)

(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.

(Ord. 343 – Nov. 09 Supp.)

(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 three dollars (\$3.00) per day plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

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

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

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

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

(Ch. 80 – Ord. 317 – Sep. 05 Supp.)

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets

81.04 Crossing Maintenance
81.05 Speed

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

1. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.
(Code of Iowa, Sec. 321.1)
2. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 *(Repealed by Ord. 385 – Jan. 16 Supp.)*

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

(Ord. 308– Oct. 04 Supp.)

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

81.05 SPEED. It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than thirty (30) miles per hour.

(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])

[The next page is 401]

CHAPTER 90

WATER SERVICE SYSTEM

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

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

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

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council.

In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

(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. When a water main is replaced or relocated, the City may discontinue water supply in the old main or location and require connection to the new or relocated main.

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. The cost of the disconnection shall be paid by the owner of the property previously served by the connection being abandoned.

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 two hundred and fifty dollars (\$250.00). The requirement for service application and payment of the connection charge shall be applicable in the case of any new principal structure to be connected with the public water system, even if an existing water service pipe is used.

(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 Division 4, Plumbing Rules and Regulations, of the State Building Code.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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

1. Independent Services. Except as hereinafter provided in the case of mobile homes, not more than one house, building or premises shall be supplied with water from each tap to a public water main unless written permission is obtained from the Council and unless provision is made so that each house, building or premises may be shut off independently of all others. In the case of mobile homes not converted to real estate located in mobile home parks or on any lot or group of adjacent lots where two or more mobile home owners rent space from the owner of the real estate, there shall be only a single tap to the public water main serving such park, lot or group of adjacent lots.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in

the main. The corporation stop in the main shall be of the same size as the service pipe.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line must first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

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

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

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

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

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall

permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected, the Superintendent has ordered the water to be turned on and a reinstatement fee of fifty dollars (\$50.00) has been paid to the City.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 PUBLIC WATER MAIN EXTENSIONS. It is the policy of the City to extend public water mains to all premises within the City for which such service is desired as municipal financial and personnel limitations permit. However, the City shall have no obligation to extend water mains or otherwise facilitate, at public expense, new connections to any particular premises at any particular time. The City will cooperate in the extension of public water mains within the City at private expense, including requiring reasonable reimbursement, as determined by the Council, to the original installer. In addition to the connection charge specified in Section 90.06, the City may require the payment of a special connection charge in order to recover some part or all of the cost of extension of the public main. The amount of any such special charge, or a formula to be used to determine the special charge, shall be established by resolution of the Council at the time the public main is extended. The special connection charge may be payable to the City or to a person or the successor of a person who paid or contributed, through special assessment or otherwise, to the original cost of the public water main extension, as provided in the resolution. Nothing herein shall prevent the financing of public water main extensions in any other lawful manner, including special assessment, as determined by the Council.

90.21 CITY OWNERSHIP AND CONTROL OF WATER MAINS. It is the policy of the City to bring under City ownership and control all water mains within the City which serve more than one building or premises, and for this purpose the following requirements shall apply:

1. New Installations. New water mains shall be installed within City street rights-of-way or on other municipal property wherever practicable, and all such mains shall be the property of the City. Where installation on City street rights-of-way or other municipal property is not practicable, utility easements shall be granted to the City when new mains serving more than one building or premises are installed as a condition for the connection of the same to the public water system.
2. Existing Water Mains. In the case of any existing water mains serving more than one building or premises and located on private property, for which no express easement to the City exists, a utility easement shall be granted to the City by the property owner upon request as a condition of continued connection to the public water system. If a public water main is located on private property, the owner shall also, upon request, grant easements for the connection thereto of such water service pipes from other properties as the City Council deems appropriate, subject to reasonable reimbursement for the expense of privately financed water mains in the same manner as set forth in Section 90.20.

90.22 DAMAGING WATER SYSTEM. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the water system.

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 Repairs
91.07 Right of Entry
91.08 Tampering with Meters

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City. Except as hereinafter provided in the case of mobile homes, water usage at each house, building or premises shall be measured by a separate meter unless written permission is obtained from the Council. In the case of mobile homes not converted to real estate located in mobile home parks or on any lot or group of adjacent lots where two or more mobile home owners rent space from the owner of the real estate, all water furnished to such park, lot or group of adjacent lots shall be measured through a single meter.

91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

91.07 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.08 TAMPERING WITH METERS. No person, other than authorized City personnel, shall break the seal on a water meter, alter or adjust a meter reading or the measuring function of a meter, or otherwise intentionally or recklessly tamper with or damage a water meter furnished by the City. Whenever a violation of this section has been found to have occurred, water service to the building or premises served is subject to termination as provided in Section 90.18 in addition to any other penalties provided by law.

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 Water Service Deposit
92.10 Temporary Vacancy
92.11 Hydrant Hookup Charge

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. In the case of mobile homes not converted to real estate located in mobile home parks or on any lot or group of adjacent lots where two or more mobile home owners rent space from the owner of the real estate, there shall be only a single account and billing for such park, lot or group of adjacent lots. In all cases, the owner of the real estate served by each connection shall be responsible for payment for all water services provided to such real estate.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

Effective January 1, 2022, the base fee of \$4.00 shall be charged to all premises served with water service whether the service is being utilized or not. A rate of \$.00725 per gallon will be charged for each gallon used.

(Section 92.02 – Ord. 422 – Mar. 23 Supp.)

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 the same rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(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 shall be read monthly by City personnel.
2. Billings. All water charges shall be billed on a monthly basis. The Clerk shall mail the bill for water charges for the previous month to the customer by the 15th day of the month following the month for which the charges are imposed.
3. Payment. All water charges are due and shall be paid to the Clerk by the last day of each month following the month for which the charges are imposed.
4. Late Payment Penalty. Charges not paid when due shall be deemed delinquent and a late penalty of 10% shall be added to the amount of the water charge.
5. Rental Properties. Except as provided in this subsection, the owner of a rental property shall be deemed the customer or account holder for water service billing purposes and all bills for water charges shall be directed to such owner. In the case of a residential rental property for which the owner has given notice as provided in Section 92.07, the tenant shall be deemed the customer or account holder for water service billing purposes.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued or disconnected in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Billing Clerk shall notify each customer whose account has not been paid by the due date that service will be discontinued or disconnected 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 at least twelve (12) days before the date intended for the service discontinuance or disconnection and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing before the Water/Sewer Committee prior to the discontinuance or disconnection.

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 the customer wishes to appear before the Council, the customer shall notify the Clerk in writing within ten (10) days of the date of the notice of delinquency. The Council shall then conduct an informal hearing and make a determination as to whether the discontinuance or disconnection is justified and if the Council finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.
4. Fees. A fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer.

(Ord. 398 – Sep. 17 Supp.)

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.

(Ord. 374 – Dec. 13 Supp.)

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

(Ord. 388 – Sep. 17 Supp.)

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. *(Ord. 344 – Nov. 09 Supp.)*

(Code of Iowa, Sec. 384.84)

92.09 WATER SERVICE DEPOSIT. The water service deposit referred to in Section 92.07 is hereby fixed in the amount of fifty dollars (\$50.00) which shall be deposited with the Clerk by the residential tenant of each rental property for which the owner has given notice in compliance with Section 92.07.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. (Repealed by Ord. 406 – Apr. 19 Supp.)

92.11 HYDRANT HOOKUP CHARGE. A fee of fifty dollars (\$50.00) plus water usage shall be charged to hook onto and get water from any water hydrant within the City. All connections shall be made by a City employee with the permission of the Mayor. *(Ord. 358 – Dec. 12 Supp.)*

o o o o o o o o o o

CHAPTER 93

PROTECTION OF PUBLIC WATER WELLS

93.01 Purpose

93.02 Regulation

93.01 PURPOSE. The purpose of this chapter is to regulate and restrict potential sources of contamination within 200 feet of public water supply wells in the City as required by Iowa Administrative Code Section 567-43.3(7)(455B).

93.02 REGULATION. No structure or facility of the type enumerated in Iowa Administrative Code Section 567-43.3(7)(455B) shall be constructed, located or maintained within the distances set forth in Table A from a public water supply well in the City.

TABLE A: SEPARATION DISTANCES

| SOURCE OF CONTAMINATION | REQUIRED MINIMUM DISTANCE FROM WELL, IN FEET | |
|--|---|--|
| | Deep Well ¹ | Shallow Well ¹ |
| WASTEWATER STRUCTURES: | | |
| Point of Discharge to Ground Surface | | |
| Sanitary & industrial discharges | 400 | 400 |
| Water treatment plant wastes | 50 | 50 |
| Well house floor drains | 5 | 5 |
| Sewers & Drains² | | |
| Sanitary & storm sewers, drains | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe |
| Sewer force mains | 0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer pipe | 0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer main pipe |
| Water plant treatment process wastes that are treated onsite | 0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe | 0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe |
| Water plant wastes to sanitary sewer | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe |
| Well house floor drains to sewers | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe | 0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe |
| Well house floor drains to surface | 0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe | 0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe |

| | | |
|---|------|------|
| Land Disposal of Treated Wastes | | |
| Irrigation of wastewater | 200 | 400 |
| Land application of solid wastes ³ | 200 | 400 |
| Other | | |
| Cesspools & earth pit privies | 200 | 400 |
| Concrete vaults & septic tanks | 100 | 200 |
| Lagoons | 400 | 1000 |
| Mechanical wastewater treatment plants | 200 | 400 |
| Soil absorption fields | 200 | 400 |
| CHEMICALS: | | |
| Chemical application to ground surface | 100 | 200 |
| Chemical & mineral storage above ground | 100 | 200 |
| Chemical & mineral storage on or under ground | 200 | 400 |
| Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia) | 200 | 400 |
| ANIMALS: | | |
| Animal pasturage | 50 | 50 |
| Animal enclosure | 200 | 400 |
| Earthen silage storage trench or pit | 100 | 200 |
| Animal Wastes | | |
| Land application of liquid or slurry | 200 | 400 |
| Land application of solids | 200 | 400 |
| Solids stockpile | 200 | 400 |
| Storage basin or lagoon | 400 | 1000 |
| Storage tank | 200 | 400 |
| MISCELLANEOUS: | | |
| Basements, pits, sumps | 10 | 10 |
| Cemeteries | 200 | 200 |
| Cisterns | 50 | 100 |
| Flowing streams or other surface water bodies | 50 | 50 |
| Railroads | 100 | 200 |
| Private wells | 200 | 400 |
| Solid waste landfills and disposal sites ⁴ | 1000 | 1000 |

¹ Deep and shallow wells, as defined in [567—40.2\(455B\)](#): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

² The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

³ Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

⁴ 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.

(Ch. 93 – Ord. 326 – Oct. 06 Supp.)

CHAPTER 94

PRIVATE WELLS

94.01 Private Wells – Permit Required
94.02 Application
94.03 Permit Issuance

94.04 Appeal of Denial
94.05 Other Permits
94.06 Exemption

94.01 PRIVATE WELLS – PERMIT REQUIRED. No person shall drill or construct a private water well after the effective date of the ordinance codified by this chapter within the following described area of the City of Marquette unless a permit has been issued for the well by the City:

All that part of the City of Marquette lying North of Brown Street and East of Fourth Street, including Lots 1-49 of the Original Plat, the Milwaukee Subdivision, and Government Lot I in Section 15, Township 95 North, Range 3 West of the 5th P.M., but excluding Government Lot 2 in Section 15, Township 95 North, Range 3 West of the 5th P.M., in Clayton County, Iowa.

94.02 APPLICATION. A permit application shall be filed in the office of the City Clerk on forms provided by the City. A nonrefundable application fee of \$50 shall accompany the application. The Clerk shall promptly refer the application to the Water and Sewer Superintendent. The application shall include data concerning soil and groundwater contamination in the particularly described site of the proposed well.

94.03 PERMIT ISSUANCE. In determining whether to issue a permit, the Water and Sewer Superintendent shall consider the availability of public water to serve the facility, the estimated amount of water to be consumed, and the purpose for which the water will be used. A permit shall not be issued if the property to be served by the private well is within 300 feet of a public water main. The Iowa Department of Natural Resources Leaking Underground Storage Tank Section shall be notified of any application. A decision to grant or deny a permit shall be made by the Water and Sewer Superintendent within 30 days of receipt of the application. If a permit is denied, written notice of denial shall be given to the applicant with the reason for denial stated therein together with notification of the rights of the applicant to appeal the decision.

94.04 APPEAL OF DENIAL. If a permit application is denied, the applicant may appeal the Water and Sewer Superintendent's decision to the City Council. The appeal shall be made by written notice delivered to the City Clerk within 30 days of the date of the Superintendent's denial. The City Council shall schedule a hearing on the appeal within 30 days from the date of the appeal

with notice of the hearing to the applicant. If there is no appeal, the decision of the Superintendent is final. Where appeal is taken, the decision of the City Council is final.

94.05 OTHER PERMITS. The issuance of a City permit for a private well shall not relieve the applicant from the duty to secure any other permits required by the County or State.

94.06 EXEMPTION. The permit requirement provided in this chapter shall not apply to monitoring wells used for soil and groundwater investigation.

(Ch. 94 – Ord. 332 – Dec. 07 Supp.)

[The next page is 421]

CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the public sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more

than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. **Septic Tanks.** Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. **Untreated Discharge.** Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 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. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil,

refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

o o o o o o o o o

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Application for Service
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required

96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations
96.11 Public Sewer Extensions
96.12 City Ownership and Control of Sewers

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 CONNECTION CHARGE. The person who makes the application for service shall pay to the Clerk a connection charge in the amount of two hundred and fifty dollars (\$250.00).

(Code of Iowa, Sec. 384.84)

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the

City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent 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 Superintendent, 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. Any existing joint building sewers in violation of this subsection shall be eliminated by the owners or users thereof when directed by the Council, either through the installation of one or more new, separate building sewers or by transferring ownership and control of the private joint sewer to the City, as determined by the Council.
3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent 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 of one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity: 2.00 feet per second with the sewer half full.
 - D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Superintendent 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 Division 4 of the State Building 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. – SDR 26 – 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, which 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 Superintendent. 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 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 Superintendent. 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.

96.06 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 Superintendent, 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 provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, 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.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, a saddle “Y” shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent’s direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 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.

96.10 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])

96.11 PUBLIC SEWER EXTENSIONS. It is the policy of the City to extend public sewers to all premises within the City which produce wastewater as municipal financial and personnel limitations permit. However, the City shall have no obligation to extend sewers, install lift stations or otherwise facilitate, at public expense, new connections to any particular premises at any particular time. The City will cooperate in the extension of public sewers

within the City at private expense, including requiring reasonable reimbursement, as determined by the Council, to the original installer. In addition to the connection charge specified in Section 96.02, the City may require the payment of a special connection charge in order to recover some part or all of the cost of extension of the public sewer. The amount of any such special charge, or a formula to be used to determine the special charge, shall be established by resolution of the Council at the time the public sewer is extended. The special connection charge may be payable to the City or to a person or the successor of a person who paid or contributed, through special assessment or otherwise, to the original cost of the public sewer extension, as provided in the resolution. Nothing herein shall prevent the financing of public sewer extensions in any other lawful manner, including special assessment, as determined by the Council.

96.12 CITY OWNERSHIP AND CONTROL OF SEWERS. It is the policy of the City to bring under City ownership and control all sewer mains and lift stations which serve more than one building or premises, and for this purpose the following requirements are applicable:

1. **New Installations.** Whenever practicable, all sewer mains and lift stations serving more than one building or premises shall be installed within City street rights-of-way or on other municipal property, and all such facilities shall be the property of the City. Where installation on City street rights-of-way or other municipal property is not practicable, utility easements shall be granted to the City when such facilities are installed as a condition for the connection of the same to the public sewer system.
2. **Existing Installations.** In the case of any existing sewers and lift stations serving more than one building or premises and located on private property, for which no express easement to the City exists, a utility easement shall be granted to the City by the property owner upon request as a condition of continued connection to the public sewer system. If a sewer is located on private property, the owner of the property shall also, upon request of the City, grant easements for the connection thereto of such building sewers from other properties as the City Council deems appropriate, subject to reasonable reimbursement for the expense of privately financed sewers and lift stations in the same manner as set forth in Section 96.11.

o o o o o o o o o

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges – Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.09 Discharges From External Sources

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

- B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES – POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

97.09 DISCHARGES FROM EXTERNAL SOURCES. The Superintendent may, at the Superintendent's discretion, allow discharges into the City sewer system from an external source, such as a recreational vehicle or a portable toilet. If the Superintendent approves and allows the discharge, there shall be a fee of ten dollars (\$10.00) for each discharge up to 2500 gallons and a fee of twenty dollars (\$20.00) for any discharge in excess of 2500 gallons.

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 an 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 Rates For Service
99.03 Special Charges
99.04 Private Water Systems

99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATES FOR SERVICE. Each customer shall pay sewer service charges for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

Effective July 1, 2021, the base fee of \$10.00 shall be charged to all premises served whether the service is being utilized or not. A rate of \$.00645 per gallon will be charged for each gallon used.

(Section 99.02 – Ord. 422 – Mar. 23 Supp.)

99.03 SPECIAL CHARGES. Any customer who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the sewage treatment works, or any customer who discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the sewage treatment works, shall pay for such increased costs. The charge to each such customer shall be as determined by the Superintendent and approved by the Council.

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the Superintendent either by an estimate agreed to by the customer or by metering the water system at the customer's expense.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account. The owner of the

premises served shall in all instances be deemed the customer or account holder for sewer service billing purposes and all bills for sewer service shall be directed to such owner.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. *(Ord. 363 – Dec. 12 Supp.)*

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

[The next page is 451]

CHAPTER 105

SOLID WASTE CONTROL

| | |
|--|---|
| 105.01 Purpose | 105.08 Open Dumping Prohibited |
| 105.02 Definitions | 105.09 Toxic and Hazardous Waste |
| 105.03 Sanitary Disposal Required | 105.10 Waste Storage Containers |
| 105.04 Health and Fire Hazard | 105.11 Prohibited Practices |
| 105.05 Open Burning Restricted | 105.12 Sanitary Disposal Project Designated |
| 105.06 Separation of Yard Waste Required | 105.13 Recycling |
| 105.07 Littering Prohibited | |

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Director” means the director of the State Department of Natural Resources or any designee.
(Code of Iowa, Sec. 455B.101[2b])
3. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[2])
4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. “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)

6. “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])

7. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.

(Ord. 389 – Sep. 17 Supp.)

(Code of Iowa, Sec. 455B.361[2])

8. “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.

9. “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)

10. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including two (2) separate dwelling units.

11. “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])

12. “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)

13. “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)

14. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the

public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(*Code of Iowa, Sec. 455B.301*)

(*Subsection 14 – Ord. 409 – Nov. 20 Supp.*)

15. “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.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

(1) Processed at a pyrolysis or gasification facility.

(2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

(*Subsection 15 – Ord. 409 – Nov. 20 Supp.*)

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on

any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. 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. Back Yard Burning. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less, provided such burning is in a non-combustible incinerator with a wire mesh lid containing no openings greater than one square inch.

(IAC, 567-23.2[3f] and 567-20.2[455B])

7. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers 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. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

11. Habitat Management. Prescribed burns conducted for the purpose of wildlife habitat maintenance and natural area management are permitted on City owned property located at the Driftless Area Wetlands Centre, provided permission is granted from the local Fire Department.

(Ord. 392 – Sep. 17 Supp.)

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

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, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 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. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.10 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 containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential refuse shall be stored in plastic waste storage containers leased or purchased from a collector furnishing residential solid waste collection services under contract with the City.
 - B. Commercial. Refuse on any nonresidential premises shall be stored either in the same type of container as described above for residential premises or in metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers

shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

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 which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Waste Management Agency are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

105.13 RECYCLING.

1. The occupants of each household and residence of the City shall separate the following recyclable materials from other household

garbage and refuse and shall dispose of such recyclable materials in the following manner:

- A. Plastic Bottles and Plastics. All lids and covers shall be removed and all contents emptied and all plastic bottles shall be either tied together, bundled or placed in a container approved by the City.
 - B. Glass Bottles, Glass Jars and Other Glass. All lids and covers shall be removed, all contents emptied and all glass bottles, glass jars and other glass shall be placed in a container approved by the City. Window glass, cookware, light bulbs, and mirrors are not included herein.
 - C. Aluminum. All lids and covers are to be removed, all contents emptied and said aluminum shall be placed in a container approved by the City. Aluminum includes aluminum cans, foil, wrappers and containers for prepared dinners or other foods.
 - D. Newsprint and Other Publications. Newsprint and other publications, including books, magazines, catalogs, telephone books and advertising circulars, shall be flattened, bundled and securely tied or placed in a container approved by the City.
2. Each household and residential unit shall use an approved container which shall be used for all recyclable materials which are not tied or otherwise bundled.
 3. All recyclable materials shall be separated from other household garbage and refuse and shall be placed at the curb, alley or approved location for garbage collection on the days scheduled for collection of recyclable materials.
 4. The collector shall not be required to pick up or remove recyclable materials if such recyclable materials are not tied, secured or packaged and placed at the curb, alley or approved location for garbage collection in accordance with this section.
 5. From the time of placement at the curb of the recyclable materials above set forth in accordance with the terms hereof, the same shall become the property of the City or its authorized agent, and it is a violation of this Code for any person unauthorized by the City to collect or pick up the same.
 6. As used in this section, "container approved by the City" includes a recycling bin furnished for recycling purposes by a collector furnishing residential solid waste collection services under contract with the City.

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fee
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEE. The collection and disposal of solid waste as provide by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefore in accordance with the following:

1. Fee for Collection. The fee for solid waste and recyclable material collection and disposal service, used or available, is \$19.00 per month for each dwelling unit on each residential premises. This monthly charge includes a rental fee for one 64-gallon or one 96-gallon solid waste container, which shall be made available to each dwelling unit by the collector furnishing residential solid waste collection services under contract with the City. The fee for any other premises regularly used or occupied for commercial, industrial or institutional purposes shall be \$21.00 per month. A hauler possessing a City permit may impose and collect reasonable charges for all solid waste collection and disposal and recycling services provided to commercial, industrial and institutional premises which shall be in addition to the charge imposed on such premises by the City under this section.[†]

(Section 106.08 – Ord. 428 – Mar. 23 Supp.)

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.

(Ord. 363 – Dec. 12 Supp.)

(Code of Iowa, Sec. 384.84)

[The next page is 471]

[†] **EDITOR'S NOTE:** Ordinance No. 428 was adopted with an effective date of May 1, 2023.

CHAPTER 110

ELECTRIC FRANCHISE

110.01 Grant of Franchise
110.02 Placement of Appliances
110.03 Excavations
110.04 Construction and Maintenance
110.05 Installation of Meters
110.06 Standard of Service

110.07 Nonexclusive Franchise
110.08 Uninterrupted Service
110.09 Franchise Fee
110.10 Term of Franchise
110.11 Entire Agreement

110.01 GRANT OF FRANCHISE. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years;[†] also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

110.02 PLACEMENT OF APPLIANCES. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials,

[†] **EDITOR’S NOTE:** Ordinance No. 345 adopting an electric franchise for the City was passed and adopted on December 15, 2009.

restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, 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 manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

110.05 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

110.06 STANDARD OF SERVICE. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

110.07 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

110.08 UNINTERRUPTED SERVICE. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

110.09 FRANCHISE FEE.

1. **Collection.** In its monthly billing the Company shall include a franchise fee of zero percent (0%) on the gross receipts from the sale of electricity for customers within the limits of the City. The Company shall commence collecting the 0% franchise fee on the date of January 1 or July 1 following six months from the date the acceptance of the franchise by the Company is filed with the City Clerk. The franchise fee may increase up to a maximum of 5% on or after January 1, 2010. The City shall give the Company a minimum 6-month notice prior to the request to implement an increase in the franchise fee. City shall be solely responsible for the proper use of any amounts collected as franchise fees and shall only use such fees as collected for a purpose as allowed by applicable law. Collection of the franchise fee shall cease at the earlier of the City's repeal of the franchise fee or the end of the franchise term.
2. **Application.** The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2(f) and 423B.5. The Company shall not grant exemptions or refunds of the franchise fee beyond that granted by the Code of Iowa. If at any time the Iowa Utilities Board or another authority having proper jurisdiction prohibits the collection or payment of a franchise fee, the Company shall be relieved of its obligation to collect and pay to the City the franchise fee.
3. **Additional Charges.** The franchise fee shall include an additional charge equal to .06 percent (0.06%) on the gross receipts from the sale of electricity for customers within the limits of the City. Said additional charge will cover the administrative and related expenses incurred by Company to accommodate City's franchise fee and shall only apply when a franchise fee is being collected pursuant to this chapter.
4. **Obligations.** The City agrees that the Company's obligations related to the franchise fee are limited to those obligations set forth in subsections 1, 2 and 7 of this section. The City further agrees to bear all costs (including attorney fees), and to defend, indemnify and hold the Company harmless from any and all liability, claims or causes of action associated with disputes related to the billing and/or collection of the franchise fee, provided that the City shall not be obligated to bear such costs or to defend, indemnify and hold Company harmless if such disputes arise from claims of inaccurate billing by the Company.
5. **Annexation.** Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the limits of the City, the Clerk shall provide written notification to an officer of Company of such annexation or change in the limits of the City, and the Company shall apply the franchise fee to its customers who are affected by the

annexation or change in the limits of the City, commencing six (6) months from receipt of the written notice.

6. **Utility Bill.** The sum of such additional charges for the franchise fee and any additional charge related to subsections 1 and/or 3 above shall be shown separately on the utility bill to each customer.

7. **Fees Remitted to City.** The Company shall remit collected franchise fees to the City on a quarterly basis, within thirty (30) days after last day of the last revenue month of the quarter.

8. **Franchise Fee in Lieu of Other Payments.** Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys and public places in the City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of the franchise.

110.10 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

110.11 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter, that create additional burdens upon the Company, or which delay utility operations.

[The next page is 477]

CHAPTER 111

CABLE TELEVISION FRANCHISE AND REGULATIONS

| | |
|--|---|
| 111.01 Definitions | 111.11 Revocation of Franchise |
| 111.02 Franchise Required | 111.12 Discriminatory Practices Prohibited |
| 111.03 General Provisions for Grant of Authority | 111.13 Subscriber Privacy |
| 111.04 Construction Standards | 111.14 Unauthorized Connections and Modifications |
| 111.05 Design Provisions | 111.15 Franchise Renewal |
| 111.06 Services Provisions | 111.16 Amendment |
| 111.07 Franchise Fee | 111.17 Administration of Franchise |
| 111.08 Access to Records | 111.18 Periodic Evaluation |
| 111.09 Reports to Be Filed with City | 111.19 Citizens Advisory Board |
| 111.10 Insurance | |

111.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Basic cable service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. §543(b)(7) (1993).
2. “Cable communications system” or “system” means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment, or facilities located in City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video, and other forms of electronic signals in City. “System,” as defined herein, shall not be inconsistent with the definition as set forth in 47 U.S.C. §522(6) (1993).
3. “Cable programming service” means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - A. Video programming carried on the Basic Service Tier;
 - B. Video programming offered on a pay-per-channel or pay-per-program basis; or
 - C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

- (1) Consists of commonly identified video programming;
and
 - (2) Is not bundled with any regulated tier of service.
4. “Cable programming service” as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §543(1)(2) (1993) and 47 C.F.R. 76.901(b) (1993).
 5. “Cable communications service” means the provision of television reception, communications and/or entertainment services distributed over a cable communications system. This definition does not include telephone services regulated pursuant to State law as may be amended from time to time.
 6. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable communications services which the subscriber is lawfully authorized to receive.
 7. “Drop” means the cable that connects the ground block on the subscriber’s residence to the nearest feeder cable of the system.
 8. “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
 9. “Grantee” is DD Cable Holdings, Inc., d/b/a Midwest Cablevision, its agents and employees, lawful successors, transferees or assignees.
 10. “Gross Revenues” means all revenue received from cable system service as defined, received directly by the Grantee from the operation of its system within City, including but not limited to basic cable service fees, cable programming service fees, pay television fees, installation and reconnection fees, upgrade and downgrade fees, converter rental, lockout device fees or other service fees. The term “gross revenues” shall not include franchise fees, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
 11. “Installation” means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

12. “Lockout device” means an optional mechanical or electrical accessory to a subscriber’s terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable communication system.

13. “Pay television” means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

14. “Standard installation” means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

15. “Street” means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by City.

16. “Subscriber” means any person who lawfully receives cable television service. In the case of multiple office buildings or multiple dwelling units, the “subscriber” means the lessee, tenant or occupant.

111.02 FRANCHISE REQUIRED. It is unlawful for any person to construct, operate or maintain a cable communications system in the City unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise. It is also unlawful for any person to provide cable television service in the City unless such person shall have first obtained and shall currently hold a valid franchise. All cable communications franchises granted by the City shall contain the same substantive terms and conditions.

111.03 GENERAL PROVISIONS FOR GRANT OF AUTHORITY.

1. Grant of Franchise. The franchise is granted pursuant to the terms and conditions contained herein.

2. Grant of Nonexclusive Authority.

A. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communications system as herein defined. The cable communications system constructed and maintained by the

Grantee or its agents shall not interfere with other uses of streets. The Grantee shall make use of existing poles and other facilities available to the Grantee to the extent it is lawfully authorized and when it is technically and economically feasible to do so.

B. The franchise shall be nonexclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of the franchise, provided, however, that any additional cable franchise grants shall be under the same terms and conditions as this franchise.

C. The Grantee shall have the authority to use City easements, rights-of-way, streets and other conduits for the distribution of Grantee's system. The City may require all developers of future subdivisions to allow and accommodate the construction of the system as part of any provisions for utilities to serve such subdivisions.

3. Franchise Term. The franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by the Grantee, unless renewed, revoked or terminated sooner as herein provided.[†] Upon acceptance by Grantee the franchise supersedes and replaces any previous ordinance or agreement granting a franchise to Grantee to own, operate and maintain a cable communications system within the City. Any such ordinance is hereby repealed.

4. Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this franchise and to assure uninterrupted service to each and all of its subscribers, provided that such rules, regulations, terms and conditions are not in conflict with provisions hereof, the rules of the FCC, and the laws of the State, City or any other body having lawful jurisdiction thereof.

5. Territorial Area Involved. The franchise is granted for the corporate boundaries of the City as such boundaries exist from time to time. In the event of annexation by the City, any new territory shall become part of the area covered.

[†] **EDITOR'S NOTE:** Ordinance No. 269, adopting a cable television franchise for the City, was passed and adopted on December 12, 1995. The Grantee accepted the franchise on March 12, 1996.

6. **Mandatory Service Extensions.** Grantee shall extend service to all permanent residences within the corporate limits of the City, including areas annexed during the term of the franchise, for which service is requested; provided, however, the Grantee shall not be required to extend service beyond its present system boundaries unless there is a minimum of twenty-five (25) homes per cable mile. Grantee shall be given a reasonable period of time to construct and activate cable plant to service areas not previously served.

7. **Written Notice.** All notices, reports or demands required to be given in writing under this chapter shall be deemed to be given when delivered personally to any officer of the Grantee or the City's administrator of the franchise, or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail, postage prepaid thereon, properly addressed to the party to whom notice is being given.

8. **Drops to Public Buildings.** Grantee shall provide installation of one (1) cable drop, one (1) cable outlet, and monthly basic cable service without charge to Marquette City Hall, to the City Shop building and to not more than one (1) additional public or educational institution as the Council may designate during the term of the franchise. No redistribution of the free basic cable service and cable service provided pursuant to this section shall be allowed. Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable communications services are paid. Nothing herein shall be construed as requiring Grantee to extend the system to serve additional institutions as may be designated by the City except as provided in the first sentence of this subsection. Grantee shall have one (1) year from the date of Council designation, if any, of the additional institution to complete construction of the drop and outlet.

111.04 CONSTRUCTION STANDARDS.

1. **Repair of Streets and Property.** Any and all streets or public property or private property which is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work, as approved by the City in the case of streets and other public property. If Grantee fails to promptly perform the restoration required herein, the City shall have the right to put the streets or public

or private property back into good condition. The City reserves its rights to pursue reimbursement for such restoration from Grantee.

2. **Building Movers.** The Grantee shall, on request of any person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days' advance notice to arrange for such temporary changes.

3. **Tree Trimming.** Upon receiving prior approval from the City's Street Superintendent, the Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

4. **No Waiver.** Nothing contained in this chapter shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

5. **Undergrounding of Cable.**

A. In all areas of City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. Amplifier boxes and pedestal mounted terminal boxes may be placed above ground if existing technology reasonably requires, but shall be of such size and design and shall be so located as not to be unsightly or unsafe.

B. In any area of City where there are certain cables, wires and other like facilities of a public utility or public utility district underground and at least one operable cable, wire or like facility of a public utility or public utility district suspended above the ground from poles, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

C. Grantee shall be granted access to any easements granted to a public utility, municipal utility or utility district in any areas annexed by City or new developments.

6. **Erection, Removal and Joint Use of Poles.** No poles, conduits, or other wire-holding structures shall be erected or installed by the Grantee without prior approval of the City with regard to location, height, type and other pertinent aspects.

7. **Safety Requirements.**

A. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The Grantee shall install and maintain its system wires, cables, fixtures and other equipment in substantial compliance with the requirements of the *National Electric Safety Code* and all FCC, State and local regulations, and in such manner that they will not interfere with any installations of the City or of any public utility serving the City.

C. All system structures and all system lines, equipment and connections in, over, under and upon the streets, sidewalks, alleys, and public ways and places of City, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

111.05 DESIGN PROVISIONS.

1. **Minimum Channel Capacity.** Grantee shall provide a system which utilizes 450 MHz equipment and which is capable of delivering a minimum of sixty (60) channels.

2. **Operation and Maintenance of System.** The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruption, to the extent feasible, shall be preceded by notice in accordance with Section 111.03(7) herein and shall occur during periods of minimum use of the system.

3. **Technical Standards.** The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference.

4. **Special Testing.** The City may require special testing of a location or locations within the system if there is a particular matter of controversy or unresolved complaints pertaining to such location(s). Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in

controversy or unresolved complaints. The City shall endeavor to arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the subscribers caused by such testing. Before ordering such tests, Grantee shall be afforded thirty (30) days to correct problems or complaints upon which tests were ordered. The City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, the City wishes to commence special tests and the thirty (30) days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted by a qualified engineer selected by City. In the event that special testing is required by City to determine the source of technical difficulties, the cost of said testing shall be borne by the Grantee if the testing reveals the source of the technical difficulty to be within Grantee's reasonable control. If the testing reveals the difficulties to be caused by factors which are beyond Grantee's reasonable control, then the cost of said test shall be borne by City.

5. FCC Reports. The results of tests required to be filed by Grantee with the FCC shall also be copied to City upon request.

6. Lockout Device. Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

111.06 SERVICES PROVISIONS.

1. Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing its cable communications services within the City. Grantee shall have the right to market its cable services door-to-door during reasonable hours consistent with local ordinances and regulation.

2. Subscriber Inquiry and Complaint Procedures.

A. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber complaints and requests twenty-four (24) hours a day, seven (7) days a week.

B. Grantee shall maintain adequate numbers of telephone lines and personnel to respond in a timely manner to schedule service calls and answer subscriber complaints or inquiries in a manner consistent with regulations adopted by the Federal Communications Commission at 46 C.F.R. § 76.309.

C. Subject to the privacy provisions of 47 U.S.C. § 521 *et seq.* (1993), City and Grantee shall prepare and maintain written records of all complaints made to them and the resolution of such

complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee.

3. Refund Policy. In the event a subscriber establishes or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

111.07 FRANCHISE FEE.

1. No franchise fees are imposed at this time. However, the City may elect to impose franchise fees up to a maximum of five percent (5%) of Grantee's annual gross revenues by providing Grantee with ninety (90) days' prior written notice. Grantee shall have the right to itemize and pass through the franchise fee to its subscribers.
2. Payments due the City under this section shall be payable yearly. The payment shall be made within ninety (90) days after the end of each fiscal year, together with a brief report showing the basis for the computation.

111.08 ACCESS TO RECORDS. The City shall have the right to inspect, upon reasonable notice, at any time during normal business hours, those records maintained by the Grantee which relate to system operations and to gross revenues, subject to the privacy provisions of 47 U.S.C. §521 *et seq.* ("Cable Act").

111.09 REPORTS TO BE FILED WITH CITY. Grantee shall prepare and furnish to the City, at the times and in the form prescribed, such reports with respect to the operations, affairs, transactions or property, as they relate to the system, which Grantee and the City may agree upon.

111.10 INSURANCE. Grantee shall file with its acceptance of the franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of City in its capacity as such. The policies of insurance shall be in the sum of not less than three hundred thousand dollars (\$300,000) for personal injury or death of any one person, and one million dollars (\$1,000,000) for personal injury or death of two or more persons in any one occurrence, three hundred thousand dollars (\$300,000) for property damage to any one person and one million dollars (\$1,000,000) for property damage resulting from any one act or occurrence. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or

otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to City.

111.11 REVOCATION OF FRANCHISE.

1. City's Right to Revoke. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel the franchise, and all rights and privileges pertaining thereto, if after the hearing required in subsection 2 of this section, it is determined that:

- A. Grantee has violated any material provision of this chapter, or
- B. Grantee has attempted to evade any of the material provisions of this chapter, or
- C. Grantee has practiced fraud or deceit upon the City or a subscriber.

City may revoke the franchise without the hearing required herein if Grantee is adjudged a bankrupt.

2. Procedures for Revocation.

A. City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the franchise. The time for Grantee to correct any violation or liability shall be extended by the City if the necessary action to correct such violation or liability is of such a nature or character as to require more than sixty (60) days within which to perform, provided Grantee provides written notice that it requires more than sixty (60) days to correct such violations or liability, commences the corrective action within the sixty-day period and thereafter uses reasonable diligence to correct the violation or liability. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.

B. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty-day notice provided in paragraph A above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

- C. After the public hearing and upon written determination by City to revoke the franchise, Grantee may appeal said decision with an appropriate State or Federal court or agency.
- D. During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires.
- E. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined in the City's sole discretion, the initial notice shall become void.

111.12 DISCRIMINATORY PRACTICES PROHIBITED. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall comply at all times with all other applicable Federal, State, and City laws, and all executive and administrative orders relating to nondiscrimination.

111.13 SUBSCRIBER PRIVACY.

1. No signals including signals of a Class IV Channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for the purpose of monitoring individual viewing patterns or practices.
2. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, or any other means, including but not limited to lists of the names and addresses of such subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the subscriber subject of that information, unless Grantee has received specific written authorization from the subscriber to make such data available.
3. Written permission from the subscriber shall not be required for the conducting of system-wide or individually addressed electronic

sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provisions set forth in subsection 2 of this section.

111.14 UNAUTHORIZED CONNECTIONS AND MODIFICATIONS.

1. **Unauthorized Connections or Modifications Prohibited.** It is unlawful for any person, without the express consent of the Grantee, to make or possess, or to assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.
2. **Removal or Destruction Prohibited.** It is unlawful for any person to willfully interfere with, tamper with, remove, obstruct, or damage any part or segment of the system, or to assist in the same, for any purpose whatsoever.
3. A violation of this section is a municipal infraction and each continuing day of the violation shall be considered a separate offense.

111.15 FRANCHISE RENEWAL. Any renewal of the franchise shall be done in accordance with applicable Federal, State and local laws and regulations.

111.16 AMENDMENT. Grantee and City may agree, from time to time, to amend this chapter. Such written amendments may be made subsequent to a review session pursuant to Section 111.18 of this chapter or at any other time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in Federal, State or local laws. The City shall act pursuant to local law pertaining to the ordinance amendment process.

111.17 ADMINISTRATION OF FRANCHISE. The City Clerk or other City designee shall have continuing regulatory jurisdiction and supervision over the system and the Grantee's operation under the franchise. The City may issue such reasonable rules and regulations concerning the construction, operation and maintenance of the system as are consistent with the provisions of the franchise and law.

111.18 PERIODIC EVALUATION. The field of cable communications is rapidly changing and may see many regulatory, technical, financial, marketing and legal changes during the term of the franchise. Therefore, in order to provide for a maximum degree of flexibility in the franchise, and to help achieve a continued advanced and modern system, the following evaluation provisions shall apply:

1. The City may require an evaluation session five (5) years from the effective date of the franchise and upon thirty (30) days' written notice to the Grantee. All evaluation sessions shall be open to the public and notice of sessions published in the same way as a legal notice.
2. Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, system performance, programming offered, customer complaints, amendments to this chapter, judicial rulings, FCC rulings, line extension policies and any other topics City and Grantee deem relevant.
3. As a result of a periodic review or evaluation session, City and Grantee may develop such changes and modifications to the terms and conditions of the franchise as are mutually agreed upon.

111.19 CITIZENS ADVISORY BOARD. The City may appoint a citizens advisory board to monitor the performance of the Grantee pursuant to this chapter and advise the City of the same.

[The next page is 551]

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

120.01 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, and 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, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage 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 liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 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 6:00 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 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Ord. 425 – Mar. 23 Supp.)

(Code of Iowa, Sec. 123.49[2b] and 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(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. *(Ord. 364 – Dec. 12 Supp.)*

(Code of Iowa, Sec. 123.49 [2d])

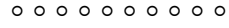
9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. 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.



CHAPTER 121

CIGARETTE PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “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, tobacco products, alternative nicotine products, or vapor products are sold, stored or kept for the purpose of sale or consumption by a retailer.

(Ord. 400 – Sep. 17 Supp.)

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.

(Ord. 379 – Dec. 14 Supp.)

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first

having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

(Ord. 379 – Dec. 14 Supp.)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13)

121.04 FEES. The fee for a retail cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13)

| FOR PERMITS GRANTED DURING: | FEE: |
|------------------------------------|-------------|
| July, August or September | \$ 75.00 |
| October, November or December | \$ 56.25 |
| January, February or March | \$ 37.50 |
| April, May or June | \$ 18.75 |

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance.

(Ord. 400 – Sep. 17 Supp.)

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting person under 21 years of age from purchasing tobacco,

tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Section 121.07 – Ord. 417 – Nov. 20 Supp.)

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)

(Ord. 379 – Dec. 14 Supp.)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

| | |
|---------------------------------|---|
| 122.01 Purpose | 122.11 Revocation of License |
| 122.02 Definitions | 122.12 Notice |
| 122.03 License Required | 122.13 Hearing |
| 122.04 Application for License | 122.14 Record and Determination |
| 122.05 License Fees | 122.15 Appeal |
| 122.06 Bond Required | 122.16 Effect of Revocation |
| 122.07 License Issued | 122.17 Rebates |
| 122.08 Display of License | 122.18 License Exemptions |
| 122.09 License Not Transferable | 122.19 Charitable and Nonprofit Organizations |
| 122.10 Time Restriction | |

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day \$ 5.00
 - B. For one week..... \$ 10.00
 - C. For up to six (6) months..... \$ 20.00
 - D. For one year or major part thereof.. \$ 25.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The 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.

122.14 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.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. 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.

122.16 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.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 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 MFL-Mar-Mac 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. Merchants. Merchants at flea markets and other activities sponsored by civic clubs and organizations.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the

exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

o o o o o o o o o

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 law enforcement officer, 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 one hundred dollars (\$100.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are

removed when necessary and replaced in good order, and shall be liable for the costs of the same.

o o o o o o o o o o

CHAPTER 124

PAWNBROKERS

124.01 Definitions
124.02 License Required
124.03 Application; Fee
124.04 Qualifications for License
124.05 Investigation
124.06 Issuance of License
124.07 License Renewal

124.08 Revocation of License
124.09 Transfer Prohibited
124.10 Display of License
124.11 Exemptions
124.12 Records Required
124.13 Purchases From Minors Restricted

124.01 DEFINITIONS. For use in this chapter “pawnbroker” means any person or entity who regularly engages in the business of making loans or advances upon the pawn, pledge or deposit of tangible personal property and who receives actual possession of the tangible personal property as security for the loan or advance, with or without a security agreement or bill of sale.

124.02 LICENSE REQUIRED. No person or entity shall carry on or engage in business as a pawnbroker in the City without first obtaining an annual license therefor from the City.

124.03 APPLICATION; FEE. An applicant for a license under this chapter shall complete an application form provided by the Clerk and pay a nonrefundable application fee in the amount of fifty dollars (\$50.00).

124.04 QUALIFICATIONS FOR LICENSE. A pawnbroker’s license may be issued to any person or entity satisfying all of the following requirements:

1. Has not submitted any false information in the licensing application.
2. Has not been convicted of any felony nor any crime involving fraud, theft or dishonest conduct.
3. Has secured any licenses or permits required by State law.
4. Has given consent to any police officer to enter upon the business premises of the pawnbroker without a warrant during regular business hours to inspect for violations of this chapter.

In the case of an applicant other than an individual, the application shall identify all persons having an ownership interest of 5% or more and the qualifications stated above shall be applied to all such owners for purposes of determining the qualifications of the applicant.

124.05 INVESTIGATION. Upon receipt of an application for a license, the Clerk shall forward it immediately to the Police Chief who shall conduct an investigation and submit a written report concerning the truth of the facts stated in the application and the qualifications of the applicant, together with a recommendation concerning whether or not a license should be issued.

124.06 ISSUANCE OF LICENSE. If the Clerk finds that all of the qualifications prescribed for the issuance of a license have been satisfied, the license shall be issued immediately to the applicant. If the Clerk denies the application or fails to act within ten (10) days after the date a completed application is submitted, the applicant may appeal to the City Council. In the event of appeal the Council shall conduct a public hearing at its next regular meeting, following which the Council shall either confirm the Clerk's denial of the license or overturn such decision and order license issuance.

124.07 LICENSE RENEWAL. A pawnbroker's license issued under this chapter may be renewed from year to year upon the submission by the licensee of a renewal application and the payment of a renewal fee of twenty-five dollars (\$25.00). An existing license shall be renewed upon application unless grounds for revocation exist.

124.08 REVOCATION OF LICENSE. After providing a licensee with reasonable notice and an opportunity for hearing, the Council may revoke any license issued under this chapter for any of the following reasons:

1. The licensee has made any false or fraudulent statement in any application for a license under this chapter or in the conduct of the business.
2. Any act, omission or condition which would have made the licensee unqualified for the issuance of a license.
3. A licensee has violated this chapter or has otherwise conducted business in an unlawful manner.
4. The licensee has conducted business in such a manner as to endanger the public welfare, health, safety, order or morals.

124.09 TRANSFER PROHIBITED. No license issued under this chapter may be transferred to another person or entity or be used for a purpose other than that for which it was issued.

124.10 DISPLAY OF LICENSE. Every person or entity who is issued a license under this chapter shall display the license in a conspicuous place on the premises on which the business is conducted.

124.11 EXEMPTIONS. This chapter shall not be construed to require a pawnbroker's license for employees of a license holder. However, the acts and omissions of any such employees shall be attributable to the license holder for purposes of determining compliance with the requirements of this chapter and continued qualification to hold a pawnbroker's license.

124.12 RECORDS REQUIRED. When any tangible personal property is received by a license holder by purchase or as security for a loan, the licensee or the licensee's employee receiving such property shall record all of the following information concerning the transaction:

1. Name and address of the person from whom received.
2. Date, time and place of the transaction.
3. A detailed and accurate description of the property received.
4. A record of whether the transaction was a purchase or security transaction.
5. A record of any moneys paid or loaned.

All receipts and records shall be open to inspection during regular business hours by any police officer acting in the course of official duty and under the direction of the Police Chief or Mayor. Failure to keep such records, or making false entries therein, or refusal to produce such records to the persons entitled to inspect the same shall be violations of this chapter.

124.13 PURCHASES FROM MINORS RESTRICTED. No pawnbroker or any employee of the same shall purchase or receive property from any person under the age of eighteen (18) years without first obtaining and receiving the written consent of the parent or legal guardian of such person. Such written consent shall be made a part of the required records and subject to inspection under the provisions of Section 124.12.

o o o o o o o o o o

CHAPTER 125

EXCURSION GAMBLING BOATS

125.01 Definitions

125.02 Municipal Admission Fee Imposed

125.03 Enforcement

125.04 Age Restrictions

125.01 DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. “Dock” means the location where an excursion gambling boat moors for the purpose of embarking and disembarking passengers.
2. “Excursion gambling boat” means a self-propelled excursion boat on which lawful gambling is authorized and licensed pursuant to Chapter 99F of the Code of Iowa.
3. “Ticketed passenger” means every person admitted during a calendar day on an excursion gambling boat, except necessary officials and employees of the boat operator working on the boat.

125.02 MUNICIPAL ADMISSION FEE IMPOSED. A municipal fee of fifty cents (\$.50) is hereby imposed for each ticketed passenger admitted to an excursion gambling boat at any dock located in the City. This fee shall be paid to the City by the operator of the boat regardless of whether any admission fee is collected from passengers. Payment to the City shall be made on a monthly basis with all accrued fees for each month payable in full on or prior to the fifteenth (15th) day of the following month. All such fees received by the City shall be credited to the General Fund. With the prior approval of the City Council, the operator of an excursion gambling boat may, for accounting and fee payment purposes, adopt a 28-day period instead of a monthly period, and in such cases all accrued fees for each 28-day period shall be payable in full on or prior to the fifteenth day following the end of each period.

125.03 ENFORCEMENT. The operator of an excursion gambling boat shall submit to the City Clerk each month, at the time of payment of the admission fees for the prior month as provided in Section 125.02, a written report which details the number of ticketed passengers admitted to the boat on each day during the prior month as well as the number of persons admitted on each calendar day who were not ticketed passengers. The City shall be granted access to such records and premises of the operator as may be necessary to verify passenger counts. Any violation of this chapter shall, in addition to any other penalties imposed by law and any other remedies existing in favor of the City, constitute a municipal infraction. If an alternative 28-day period has been

approved by the City Council, as provided in Section 125.02, the written report required by this section shall be due at the same time as the payment of passenger fees and the written report shall cover the prior 28-day period.

125.04 AGE RESTRICTIONS. Except as provided in this section, it shall be unlawful for any person under the age of twenty-one (21) years to enter or attempt to enter an excursion gambling boat. This section shall not apply to persons eighteen (18) years of age or older if:

1. They are employed by the operator of the excursion gambling boat and their employment duties require their presence on the boat.
2. They are employed by a law enforcement or emergency services agency and their presence on the excursion gambling boat is necessary in order to conduct an investigation or respond to an emergency or other call of assistance.

(Ord. 333 – Dec. 07 Supp.)

CHAPTER 126

JUNKYARD REGULATIONS

126.01 Purpose
126.02 Definitions
126.03 Location

126.04 Screening Requirements
126.05 General Operating Requirements

126.01 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and the safety of the property of the City by restricting the location of junkyards, eliminating the open storage of junk, and regulating the operation of junkyards. The requirements and restrictions imposed by this chapter shall be in addition to all regulations imposed on junkyards by or pursuant to the Zoning Ordinance.

126.02 DEFINITIONS. Except where otherwise indicated by the context, the following definitions shall apply in the interpretation and enforcement of this chapter:

1. “Junk” means old or scrap copper, brass; rope, rags; batteries; paper; trash; rubber debris; waste; or junked, dismantled, or wrecked vehicles, or parts of vehicles; or iron, steel, or other old or scrap ferrous or nonferrous metal; old bottles or other glass; bones, tinware, plastic, or discarded household goods, or hardware; and other waste or discarded material that might be prepared to be used again in some form; but “junk” does not include materials or objects accumulated by a person as byproducts, waste, or scraps from the operation of the person’s own business or materials or objects held and used by a manufacturer as an integral part of its own manufacturing processes.

2. “Junkyard” means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building, containing junk as defined above, upon which occurs one or more acts of buying, keeping, dismantling, processing, selling, or offering for sale any such junk, in whole units or by parts, for a business or commercial purpose, whether or not the proceeds from such act or acts are to be used for charity, and the term includes garbage dumps, sanitary fills, automobile graveyards and salvage yards, and recycling centers, but does not include businesses engaged in the towing, repairing, or storing of wrecked motor vehicles where sales of such wrecked motor vehicles are only incidental to the collection of repair and storage charges, or businesses required by law to receive items for redemption, recycling or disposal where such activities are incidental to primary commercial activities involving the retail sale of goods and/or services or are incidental to non-commercial activities.

If a single junkyard business is operated at more than one non-contiguous place, lot or location, each such place, lot or location shall be deemed a separate junkyard.

126.03 LOCATION.

1. Except as provided in subsection 2 of this section, no person shall operate, maintain or establish a junkyard, or any portion or part thereof, within three hundred (300) feet of any structure or building used for residential purposes.

2. Subsection 1 does not apply to any junkyard established and actually conducting business operations prior to the effective date of this chapter; provided, however, this exception shall not be construed to permit the enlargement of any such pre-existing junkyard which is not in compliance with subsection 1 and any such enlargement which does not comply with subsection 1 shall be a violation thereof.

126.04 SCREENING REQUIREMENTS.

1. Except in those instances described in subsection 2 below, a junkyard as defined in this chapter must be surrounded by a solid opaque fence or wall, of uniform design and color, and not less than six (6) feet high, which substantially screens the area in which junk is stored or deposited. The fence must be kept in good repair and shall not be used for advertising displays or signs. Suitable gates, likewise opaque, are required, which shall be closed and locked after business hours or when the junkyard is unattended. A portion of any gate, not to exceed ten (10) feet in length, may be constructed of a non-opaque material to permit observation of the fenced premises. No junk shall be permitted to be stored or deposited outside of the fence, nor may junk be stacked higher than the fence within thirty (30) feet of the fence.

2. Variations from the requirements of this section may be granted as follows:

A. If the perimeter of the junkyard is effectively blocked from public view by natural terrain features or is substantially lower in elevation than the surrounding terrain in a manner which renders the opacity requirements hereof ineffective, the City Council may, upon application, allow the substitution of a suitable fence in place of the solid opaque fence required herein.

B. If two or more junkyards which otherwise meet the standards of this chapter abut each other and are located on lots adjoining each other, the fencing requirement of this chapter shall

not apply to such common boundary so long as the common boundary continues to exist.

C. If a junkyard abuts against an opaque fence which meets the fencing requirements, or an opaque structure which is not less than six (6) feet high, the fencing requirement of this section shall not apply to such common boundary.

D. A junkyard located entirely within a fully enclosed and roofed structure shall be deemed to be in compliance with this section.

126.05 GENERAL OPERATING REQUIREMENTS. No person shall operate or maintain a junkyard which does not comply with the following requirements:

1. The junkyard, and all things kept therein, shall be maintained in a sanitary condition.
2. No water shall be allowed to stand in any place on the premises in such manner as to afford a breeding place for mosquitoes.
3. No garbage or other waste liable to give off a foul odor or attract vermin shall be kept on the premises, nor shall any refuse of any kind be kept on the premises, unless such refuse is junk as defined herein and is in use in the junkyard business.
4. No junk shall be allowed to rest upon or protrude over any public street, sidewalk, curb or other public property or become scattered or blown off the business premises.
5. Junk shall be stored and arranged so as to permit easy access to all such junk for fire fighting purposes.
6. No combustible material of any kind not necessary to the junkyard business shall be kept on the premises; nor shall the premises be allowed to become a fire hazard.
7. Gasoline and oil shall be removed from any scrapped engines or vehicles on the premises and disposed of in accordance with state law.
8. No noisy processing of junk or other noisy activity shall be carried on in connection with the junkyard business on a Sunday, any legal holiday, or at any time between the hours of six o'clock (6:00) p.m. and seven o'clock (7:00) a.m.

[The next page is 581]

CHAPTER 127

REGISTRY OF DRUG PRECURSOR SALES

127.01 Definition

127.02 Registration Required

127.03 Exception

127.04 Violations

127.01 DEFINITION. For purposes of this chapter, a “controlled substance precursor” is any product containing the following items:

1. Muriatic acid.
2. Anhydrous ammonia.
3. Red phosphorus.
4. Substances containing lithium.
5. Ether.
6. Ephedrine.

(Ord. 319 – Sep. 05 Supp.)

127.02 REGISTRATION REQUIRED. Any person or entity selling or otherwise transferring for consideration any substance containing a controlled substance precursor shall require the purchaser or transferee of said substance to provide his or her name, address and telephone number and to produce photo identification. The seller or transferor shall maintain such identifying information in a written or electronic log which shall be displayed to any law enforcement officer upon request.

127.03 EXCEPTION. The requirements of Section 127.02 shall not apply when a single pre-packaged unit of a substance containing pseudoephedrine is sold or transferred to a single individual in a 24 hour period. However, the seller or transferor may, under the authority of this section, elect to require the purchaser or transferee to provide such identifying information and to include the same in the log.

127.04 VIOLATIONS. A violation of Section 127.02 shall be a municipal infraction punishable by civil fine but shall not be a criminal offense.

o o o o o o o o o o

CHAPTER 128

HOTEL/MOTEL TAX

128.01 Tax Imposed
128.02 Definitions
128.03 Effective Date of Tax

128.04 Collection
128.05 Restrictions on Use of Revenues

128.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State.

(Code of Iowa, Sec. 423A.1)

128.02 DEFINITIONS. “Renting” and “rent,” as used in this chapter, include any kind of direct or indirect charge for the use of such room, apartment, or sleeping quarter in a hotel, motel, inn, public lodging house, or rooming house, or in any place where sleeping accommodations are furnished to a transient guest.

1. The tax imposed in this chapter does not apply to the gross receipts from the renting of a room, apartment, or sleeping quarter while rented by the same person for a period of more than thirty-one (31) consecutive days, except as provided at Paragraph 2.

2. The tax imposed in this chapter does apply to the gross receipts from the renting of a room, apartment, or sleeping quarter while rented by the same person beginning after ninety consecutive days of rental.

(Code of Iowa, Sec. 423A.5)

(Section 128.02 – Ord. 419 – Nov. 20 Supp.)

128.05 EFFECTIVE DATE OF TAX. The hotel and motel tax as set forth in this chapter shall be imposed on all sales prices received after January 1, 2012.

128.04 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.1)

128.05 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City.
2. At least fifty percent (50%) of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating or maintaining recreational, convention, cultural or entertainment facilities, including, but not limited to, memorial buildings, halls and monuments, civic centers, convention buildings, auditoriums, coliseums and parking areas or facilities located at those recreational, convention, cultural or entertainment facilities, or the payment of principal and interest on bonds or other evidence of indebtedness issued by the City for those recreational, convention, cultural or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.
3. The remaining revenues may be spent by the City for any lawful purpose for which revenues derived from ad valorem taxes may be expended.

(Ch. 128 – Ord. 359 – Dec. 12 Supp.)

[The next page is 591]

CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.01 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 alter or disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond 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 may be filed with the City. The surety bond or cash deposit shall be in the amount of five hundred dollars (\$500.00) in the case of any excavation that includes the traveled portion of any street and in the amount of two hundred fifty dollars (\$250.00) in the case of any excavation in an alley or in a street right-of-way that does not include the traveled portion of a street.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.

B. Property Damage - \$50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit 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.

12. Exemptions. Permits under this section are not required for excavations by contractors working for the City or for tree planting.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, or in the absence of a curb, that part of the street lying between the lot line and the traveled portion of the street, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

[The next page is 601]

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose

136.02 Definitions

136.03 Removal of Snow, Ice and Accumulations

136.04 Responsibility for Maintenance

136.05 City May Order Repairs

136.06 Sidewalk Construction Ordered

136.07 Permit Required

136.08 Sidewalk Standards

136.09 Barricades and Warning Lights

136.10 Failure to Repair or Barricade

136.11 Interference with Sidewalk Improvements

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. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics[†]:
 - A. The sidewalk is cracked with a vertical edge existing of more than ¾-inch high.
 - B. The sidewalk is raised more than two (2) inches in an eight- to ten-foot (8’ to 10’) area from the normal line of grade of the sidewalk.
 - C. The sidewalk is depressed more than two (2) inches in an eight- to ten-foot (8’ to 10’) area from the normal line of grade of the sidewalk.
 - D. The sidewalk has cracked into more than three (3) pieces per 4-foot square and sections are distorted or distressed with a vertical height difference of one-half (½) inch or more or a horizontal separation of two (2) inches or more.
 - E. The sidewalk has cracked and part of the sidewalk is missing, forming holes.
 - F. The sidewalk has settled or for some other reason is sloped and tilted more than one (1) inch per foot (toward either side).
 - G. The sidewalk has spalled and the surface is gone.

[†] **EDITOR’S NOTE:** See illustrations of sidewalk defects in the Appendix to this Code of Ordinances.

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. Except where sidewalk concrete is provided by a ready-mix company, the following mix quantities per square foot shall apply: 7.5 pounds cement, 16.5 pounds sand, 20.5 pounds gravel and 0.5 gallons water (the equivalent to a six-bag mix with 4,000 pounds per square inch compression strength).
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

(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. The underlying soil shall be well compacted and moistened before new concrete is poured. In areas where the soil is not well drained, the City may require a three-inch sub-base of compact, clean, coarse gravel, sand or cinders.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.

- B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than thirty-six (36) square feet in area.
- C. Driveway areas shall be not less than six (6) inches in thickness.
6. Saw Cuts. Sidewalk sections required by the preceding subsection shall be established by saw cuts which shall be a minimum of one-half ($\frac{1}{2}$) inch in depth and shall be cut by machine or masonry hand tool.
7. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
8. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
9. Elevations. Where a curb has been installed, the street edge of a sidewalk shall be at an elevation even with the curb if the sidewalk abuts the curb, and if the sidewalk does not abut the curb, the elevation shall be not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk. Where topographical conditions render the foregoing rules unfeasible, and in locations where no curb has been installed, the elevation of the sidewalk shall be determined by the Street Superintendent.
10. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb or street except where impracticable to do so because the new sidewalk section meets existing sidewalk which has a different slope.
11. Finish. All sidewalks shall be finished with a “wood float” finish.
12. 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. *(Ord. 350 – Dec. 10 Supp.)*

13. Weather for Pouring. Sidewalk cement shall not be poured when the air temperature is less than 45 degrees (F) at the time of pouring or if a temperature of lower than 45 degrees (F) is forecast for the next 24 hours. If the temperature is above 75 degrees (F), the cement shall be left wet or a liquid curing compound shall be applied uniformly over 100% of the sidewalk surface after pouring.

14. Protection After Pouring. Sidewalk cement shall be protected from traffic for a minimum of 48 hours after pouring and during such time adequate safety barriers shall be placed and maintained on all sides of the sidewalk.

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.

[The next page is 609]

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 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 ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the 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.

(Code of Iowa, Sec. 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 |
| -- | January 5, 1960 | | |
| 130 | May 2, 1966 | | |
| 235 | May 7, 1991 | | |
| 245 | August 4, 1992 | | |
| 247 | October 6, 1992 | | |
| 248 | November 3, 1992 | | |
| 253 | December 28, 1993 | | |
| 257 | June 7, 1994 | | |
| 259 | December 12, 1994 | | |
| 283 | February 15, 1999 | | |
| 284 | February 15, 1999 | | |
| 298 | May 21, 2002 | | |
| 300 | March 18, 2003 | | |
| 330 | April 17, 2007 | | |
| 396 | June 13, 2017 | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

o o o o o o o o o

CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Zoning Commission. Proposed street names shall be referred to the 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 Marquette, 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

DRIVEWAYS

140.01 Definitions
140.02 Construction
140.03 Sidewalks

140.04 Excavations
140.05 Inspection and Approval

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
2. “Paving” includes any kind of hard surfacing, including but not limited to portland cement concrete, bituminous concrete, brick, stabilized gravel or combinations of such materials, with the necessary base. “Paving” does not include surfacing with oil, gravel, oil and gravel or chloride.

140.02 CONSTRUCTION. Permission must be obtained from the Street Committee of the Council before any person constructs a driveway.

140.03 SIDEWALKS. The grade of any sidewalk shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk.

140.04 EXCAVATIONS. Excavations to do work under this chapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavations, the earth must be laid in layers and each layer tamped thoroughly. Any street, sidewalk or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. The affected area shall be maintained in good repair to the satisfaction of the Council for three (3) months after refilling.

140.05 INSPECTION AND APPROVAL. The driveway must be inspected and approved by the Street Committee within thirty (30) days after completion of the work. If the Street Committee refuses to approve the work, it must be corrected immediately. If the work has been done improperly and is not corrected by the adjoining private property owner within a reasonable time, the Council will cause the driveway to be finished or corrected and shall assess the

costs to the private property served by the driveway. Such assessment shall be collected with the general property taxes and in the same manner.

[The next page is 625]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF MARQUETTE, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX 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.

o o o o o o o o o

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.03 Foundation Requirements

146.02 Conversion to Real Property

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor

or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer's Stock.** Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

[The next page is 633]

CHAPTER 147

UTILITY SERVICE LINE CONNECTIONS

147.01 Definitions

147.02 Underground Utility Service Line Connections Required

147.01 DEFINITIONS. For the purpose of this chapter, certain terms and words are hereby defined:

1. “Utility main line” means a wire, cable or conduit owned or maintained by any electric, telephone, television or other telecommunications company utilized to provide utility service to multiple customers and to which individual utility service line connections are made.
2. “Utility service line” means a wire, cable or conduit providing electric, telephone, television or other telecommunication utility service extending from a utility main line to any building or premises where the utility service is used or consumed.

147.02 UNDERGROUND UTILITY SERVICE LINE CONNECTIONS REQUIRED. Except as provided in this section, if a utility main line has been installed underground within any street right of way adjacent to any lot or property, any new utility service line extending to any building or premises located on said lot or property shall be installed underground and connected to the underground utility main line. All costs associated with the underground service line connection shall be the responsibility of the customer and/or the utility company who shall be responsible to restore all public property affected to the same condition, as nearly as possible, as existed prior to the installation. In the event an underground service line connection cannot be made without excavating within a paved street, the Council, upon application, may grant exceptions to the requirements of this section if the cost of underground utility service line installation would be excessive.

(Ch. 147 – Ord. 310 – Oct. 04 Supp.)

[The next page is 639]

CHAPTER 148

PROPERTY MAINTENANCE REQUIREMENTS

148.01 Enforcement Officer

148.02 Roof and Exterior Surface Building
Maintenance

148.03 Exterior Brick/Masonry Maintenance

148.04 Exterior Concrete/Asphalt Maintenance

148.01 ENFORCEMENT OFFICER. The Zoning Administrator is responsible for the enforcement of this chapter.

148.02 ROOF AND EXTERIOR SURFACE BUILDING MAINTENANCE. Every building shall be maintained to be weather and water tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish, which admit rain, cold air, dampness, rodents, insects, or vermin.

148.03 EXTERIOR BRICK/MASONRY MAINTENANCE. All brick/masonry work/material on an exterior wall or other part of any structure shall be maintained to be free of cracks or other deterioration affecting structural integrity. Any and all damaged or deteriorating materials shall be replaced or remedied in accordance with industry standards.

148.04 EXTERIOR CONCRETE/ASPHALT MAINTENANCE. All concrete/asphalt on the property shall be maintained to be free of deterioration affecting structural integrity. It is not permitted to have parking lots and/or driveways in a state of disrepair, as may be evidenced by large cracks, holes, potholes, grass or weeds growing through the surface, etc. Any and all damaged or deteriorating materials shall be replaced or remedied in accordance with industry standards. If it is determined that the areas in a state of disrepair constitute 51% or more of the entire concrete/asphalt area, the City may compel the replacement of the entire concrete/asphalt area.

(Ch. 148 – Ord. 313 – Sep. 05 Supp.)

[The next page is 645]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

o o o o o o o o o o

CHAPTER 151

TREES

151.01 Planting Restrictions
151.02 Responsibility of Property Owner
151.03 Tree Trimming
151.04 Topping Prohibited
151.05 Trimming by Utility Companies
151.06 Removal of Dead or Diseased Trees
151.07 Public Property
151.08 Location

151.09 Class A Small Trees
151.10 Class B Medium and Class C Large Trees
151.11 Class D Trees
151.12 Potential Nuisance Trees
151.13 Removal of or Damage to Trees
151.14 Tree Board
151.15 Disputes and Assessments

151.01 PLANTING RESTRICTIONS. An adjoining property owner may plant trees upon and within a street right-of-way or terrace, being that area located between a property owner's lot line and that portion of the street usually traveled by vehicular traffic, subject to the terms and conditions contained in this chapter.

151.02 RESPONSIBILITY OF PROPERTY OWNER. The adjoining property owner shall be liable and responsible for the proper care, maintenance, pruning and trimming of all trees located in the terrace area described in Section 151.01, including fallen branches, so as to prevent interference with visibility and physical obstruction of pedestrian and vehicular traffic, utility service lines, street signs and traffic control devices. Tree trimming contractors operating within the City shall carry adequate insurance to cover losses to public and private property which may be incurred by negligent operations.

151.03 TREE TRIMMING. All trees shall be trimmed to a minimum height of fourteen feet (14') above the traveled roadway and to a minimum height of eight feet (8') above a sidewalk. Additional height restrictions may be imposed by the City where necessary to insure adequate visibility in specific situations.

(Ord. 420 – Nov. 20 Supp.)

151.04 TOPPING PROHIBITED. Topping, also referred to as heading, stubbing, rounding, tipping, dehorning or the drastic removal of large branches, is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the canopy and disfigure the tree. It is unlawful for any person to top any street tree, park tree or other tree on City property unless approved by the Tree Board

with respect to specific trees where, because of severe damage by storms or other causes or location under utility wires or other obstructions, other pruning practices are impractical. Proper early training, selective branch thinning or entire tree removal are acceptable tree maintenance alternatives to topping. Allowable natural shape branch thinning techniques include drop-crotch, under pruning, side pruning and through pruning.

151.05 TRIMMING BY UTILITY COMPANIES. Public utility service companies shall have the authority to prune trees, using acceptable branch thinning techniques, to remove branches or limbs which disrupt utility service lines. When half or more of the mature tree shape has been removed due to pruning or other cause, as determined by the Tree Board, the public utility service company shall first give notice to the adjacent property owner and the City, and completely remove the tree, excluding the stump. The cost incurred by the utility for the tree removal shall not be assessed against the adjacent property owner.

151.06 REMOVAL OF DEAD OR DISEASED TREES. The City is responsible and liable for the removal of dead, diseased or hazardous trees located upon or within a street right-of-way. Trees located on private property which are judged to be a hazard or a nuisance, as determined by the Tree Board, shall be condemned by the City and removed by the owner.

151.07 PUBLIC PROPERTY. All trees planted on City-owned real estate become the property of the City and the planting of a tree shall not create any property rights in any person or entity other than the City. Any trees planted on City property in violation of this chapter shall be subject to removal by the City.

151.08 LOCATION. No tree shall be planted in the following locations:

1. Less than twenty (20) feet from the intersection of a street or alley;
2. Less than ten (10) feet from a driveway;
3. Less than three (3) feet from a street;
4. Less than two (2) feet from a sidewalk;
5. Less than twenty (20) feet from a fire hydrant;
6. Within any sewer easement area.

151.09 CLASS A SMALL TREES. For the purpose of this chapter, small trees, including by example the following recommended types of trees, shall be deemed to be in the Class A category:

| | |
|-------------------|-----------------------------------|
| Amur Corktree | Japanese Tree Lilac |
| Amur Maackia | Hornbeam |
| Amur Maple | North Star Cherry |
| Cockspur Hawthorn | Sargent Cherry |
| Crabapple | Serviceberry (single stem) |
| Eastern Redbud | Tatarian Maple |
| Japanese Pagoda | Washington Hawthorn (single stem) |

Trees in the Class A category may be planted under the following conditions:

1. Where there is a minimum of twelve (12) feet from any structure or other tree.
2. Where there is an existing sidewalk and street pavement in the public right-of-way, midway between the street and the existing sidewalk but not less than two (2) feet from the sidewalk and not less than three (3) feet from the street; except for Maple trees, which shall not be less than three (3) feet from the sidewalk and not less than four (4) feet from the street.
3. Where there is no existing sidewalk or pavement in the public right-of-way, clearance distances for planting shall be the same as if the sidewalk and pavement were in place.
4. Class A trees which have reached a height exceeding fourteen (14) feet shall be pruned so that all branches and limbs are removed from the trunk up to a height of at least six (6) feet from the ground.

151.10 CLASS B MEDIUM AND CLASS C LARGE TREES. For the purpose of this chapter, medium size trees, including by example the following recommended types of trees, shall be deemed to be in the Class B category:

| | |
|----------------|-------------------|
| Freeman Maple | Littleleaf Linden |
| Hophornbeam | River Birch |
| Horse Chestnut | Sugar Maple |
| | Zelkova |

For the purposes of this chapter, large size trees, including by example the following recommended types of trees, shall be deemed to be in the Class C category, and may only be planted in terraces with adequate growth space:

| | |
|-----------------|--------------------------------------|
| American Linden | Hackberry |
| Bald Cypress | Honey Locust (thornless and podless) |
| Black Maple | Red Oak |
| Bur Oak | Shingle Oak |
| English Oak | Swamp White Oak |
| Ginkgo (male) | Tulip |
| | White Oak |

(Section 151.10 – Ord. 420 – Nov. 20 Supp.)

151.11 CLASS D TREES. For the purpose of this chapter, large or messy trees and those which restrict visibility may not be planted on terraces and, including by example the following types of trees, shall be deemed to be in the Class D category:

| | |
|--|----------------------------|
| American Elm | Mulberry |
| Siberian Elm | Osage Orange (Hedge Apple) |
| Chinese Elm | Pin Oak |
| Catalpa | Russian Olive |
| European Mountain Ash | Black Locust |
| Fruit or nut-bearing trees | Silver Maple |
| Honey Locust (thorny) | Lombardy Poplar |
| Weeping European Birch | White Poplar |
| All evergreens (firs, spruces, conifers) | Willows |

Trees in the Class D category may be planted on private property but shall not be planted upon or within a street right-of-way or easement area.

151.12 POTENTIAL NUISANCE TREES. The following trees may only be planted upon public or private property with approval of the Tree Board. Trees in this list that are planted without necessary approval are subject to removal at the property owner's expense as determined by the Tree Board:

| | |
|----------------------------|------------|
| Ailanthus (Tree of Heaven) | Cottonwood |
| Cotton-bearing Poplar | Walnut |

(Section 151.12 – Ord. 420 – Nov. 20 Supp.)

151.13 REMOVAL OF OR DAMAGE TO TREES. Any person who negligently or willfully removes, except as approved by the Tree Board, or causes damage to a tree planted on a street right-of-way or other City property is deemed to be guilty of a misdemeanor.

151.14 TREE BOARD. There is hereby established a Tree Board consisting of three (3) persons appointed by the Mayor for three-year terms. The members of the Tree Board shall serve without compensation. The duties and authority of the Tree Board are those set forth in this chapter. The Tree Board shall prepare and, with the approval of the Council, implement an annual work plan to plant, care for and remove trees located on public property within the City. City officers and employees shall cooperate with the Tree Board in the allocation of City equipment and personnel for purposes of plan implementation, subject to budgetary limitations.

151.15 DISPUTES AND ASSESSMENTS. The Tree Board shall have authority to hear all disputes involving the enforcement of the provisions of this chapter and to issue recommendations thereon to the Mayor, who shall then render a decision. The City shall not assess the cost of pruning, trimming or removing a tree to a property owner without first giving at least ten (10) days' written notice to the property owner. A property owner shall have until the end of the ten-day period in which to submit a written request for a public hearing before the Tree Board on assessment cases, and on all other disputes shall submit the hearing request within thirty (30) days of the date of the action in dispute. The property owner shall be entitled to receive a copy of the recommendation of the Tree Board to the Mayor and a copy of the Mayor's subsequent decision.

[The next page is 671]

CHAPTER 155

SIGNS

| | |
|---|---|
| 155.01 Title | 155.08 Prohibited Signs Generally |
| 155.02 Purpose | 155.09 Pre-existing Nonconforming Signs |
| 155.03 Definitions | 155.10 Permit Required |
| 155.04 Exemptions | 155.11 Permit Application and Issuance |
| 155.05 Signs on or Extending Over Public Property | 155.12 Permitted Signs |
| 155.06 Off-premises Signs Prohibited | 155.13 Permit Revocation |
| 155.07 Maintenance | 155.14 Enforcement and Violations |

155.01 TITLE. This chapter shall be known and may be cited and referred to as the “Sign Ordinance” of the City of Marquette, Iowa.

155.02 PURPOSE. The purpose of this chapter is to promote the health, safety, prosperity, aesthetics and general welfare of the community by providing for regulation of the erection of signs and to provide for the administration and enforcement of the regulations established for such purpose.

155.03 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

1. “Enforcement Officer” means the person designated by the Council to enforce and monitor compliance with this chapter.
2. “Premises” means a single contiguous tract of land, under common ownership and/or legal control, used, developed or built upon as a unit. A “premises” may be composed of all or part of one or more platted lots or, other real estate parcels, however described.
3. “Premises boundary” means the property lines bounding a premises. However, if a property line extends beyond the right-of-way line of an adjoining street or other public right-of-way, the right-of-way line shall be deemed the premises boundary under this chapter.
4. “Public property” means all real property owned by the City or any State or Federal public entity, or dedicated to public use, including the entire width of all public street and alley rights-of-way.
5. “Sign” means any object or device, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to any object, person, institution, organization, business, business product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, color, motion, illumination, or projected images. “Sign” includes any billboard, free-standing sign, ground sign, wall sign, roof sign, projecting sign, portable

sign and temporary sign. “Sign” does not include the following: flags of nations, states and cities; objects or devices visible through windows; or works of art, except murals, which in no way identify a business, product or device.

6. “Sign face” means the surface of a sign upon, against, or through which the message is displayed or illustrated. The face of a sign composed of separate characters or words attached directly to a building, wall or other surface is the smallest rectangle which encloses all of the characters or words. If an object qualifying as a sign contains no message, its “sign face” is deemed to be the smallest rectangle which encloses its largest side.

7. “Sign, free-standing” means a sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or other structure.

8. “Sign, off-premises” means a sign that is not an on-premises sign.

9. “Sign, on-premises” means a sign the primary purpose of which is to identify and/or direct attention to an occupation, business, service, activity, product, campaign, or attraction manufactured, sold, or offered upon the premises where such sign is located.

10. “Sign, portable” means a free-standing sign not permanently anchored or secured. All portable signs are temporary signs.

11. “Sign, projecting” means a sign, other than a wall sign, which projects from and is supported by a wall of a building or other structure.

12. “Sign, roof” means a sign erected upon or above a roof or parapet of a building or other structure.

13. “Sign structure” means any structure which supports or is designed or intended to support any sign. However, a wall, roof or building shall not be deemed a sign structure.

14. “Sign, temporary” means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a limited period of time only. All portable signs are deemed temporary signs.

15. “Sign, wall” means any sign attached to or erected against the wall of a building or other structure, with the exposed sign face in a plane parallel to the plane of said wall or structure, including signs painted directly on a wall.

16. “Street line” means the outer boundary of any public right-of-way, regardless of ownership of the underlying real estate.

155.04 EXEMPTIONS. With the exception of Sections 155.07 and 155.08, which apply to all signs within the City, the provisions and regulations of this chapter do not apply to the following signs:

1. Real Estate. A real estate sign with a sign face not exceeding eight (8) square feet in area which advertises the sale, rental or lease of any premises upon which the sign is located.
2. Professional. A professional name plate not exceeding one (1) square foot in area.
3. Special Events. A temporary sign advertising or promoting a special event or activity sponsored by a public, religious or non-profit organization and open to the general public; provided, however, all such signs shall be removed not later than twenty-four (24) hours after the end of the special event.
4. Construction. A sign identifying the names of the architect, engineer, contractor or other individuals involved in the construction of a building or other project, and/or announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. This exemption shall apply to only one such sign per premises provided that the sign has no more than two (2) sign faces, which are parallel to one another; no sign face shall exceed sixteen (16) square feet in size or exceed twelve (12) feet in height measured from the ground. Such sign shall be removed within one week following the completion of construction.
5. Occupational. An occupational sign denoting only the name and occupation of a person engaged in such occupation on the premises on which the sign is located, provided that there is only one such sign per premises under this exemption and which has no more than two sign faces, which shall be parallel to each other, and no sign face shall exceed ten (10) square feet in area.
6. Memorial. A memorial sign or tablet, the name of a building, and the date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
7. Traffic. A traffic or other municipal or State sign, legal notice, railroad crossing sign, danger sign, and such other temporary, emergency or non-advertising signs as may be approved by the Council or other public authority having control of the premises on which the sign is located.
8. Public. Signs of a noncommercial nature and in the public interest, erected by or upon the order of public officials, such as safety signs, welcome signs, trespassing signs, memorial plaques, signs of

historical interest, and all other similar signs, including signs designating public hospitals, libraries, schools, parks, airports, and other institutions or places of public interest or concern.

9. Political, Opinion and Religious. Political campaign signs announcing or promoting candidates seeking public office or issues pertinent to a political election and signs expressing opinions on matters of public interest or religion. *(Ord. 383 – Dec. 14 Supp.)*

10. Seasonal Decorations. Signs pertaining to recognized national holidays and national observances under regulations established by the Council.

11. Vehicular. Signs which are accessory to the use of any kind of vehicle if the sign is painted or attached directly to the body of the vehicle.

12. Indoors. Signs located within buildings, including signs visible through windows.

13. Locational. Signs notifying the public of the existence and/or location of local religious, charitable and civic organizations and their facilities.

14. Temporary. Temporary signs in the “A-1”, “R-1”, “R-2” and “R-3” zoning districts advertising garage sales or similar activities and the sale of night crawlers. This exemption shall also apply to temporary signs of a commercial nature in the “C-1”, “C-2” and “M-1” zoning districts, provided that no more than one temporary sign is located on any such premises at any one time and that such sign does not remain on the premises for more than a total of thirty (30) days in any calendar year, and further provided that such temporary commercial signs shall be subject to an application and permit requirement for which there shall be no application fee. *(Ord. 376 – Dec. 13 Supp.)*

15. Residential Identification. A sign with a single sign face not more than two (2) square feet in area identifying the occupant of any residence.

155.05 SIGNS ON OR EXTENDING OVER PUBLIC PROPERTY.

1. Signs on Public Property. No sign or sign structure shall be erected, placed or maintained on public property without the prior approval of the Council or other public authority having jurisdiction over the property, except for traffic and other public signs erected by or upon the order of public officials in the performance of their duties. This subsection does not apply to signs not otherwise prohibited by this chapter which extend over public property from adjoining structures to which they are attached.
2. Minimum Clearance Over Sidewalks. No sign or sign structure extending over a public sidewalk or any public property, other than the traveled portion of any street or alley, shall be less than twelve (12) feet in height, measured from the ground to its lowest point.
3. Minimum Clearance Over Streets. No sign or sign structure extending over the traveled portion of any street or alley shall be less than sixteen (16) feet in height, measured from the ground to its lowest point.
4. Maximum Extension. No sign or sign structure shall extend more than six (6) feet into the airspace above a public sidewalk or any public property, other than the traveled portion of any street or alley, or more than six (6) feet into the airspace above the traveled portion of any public street or alley.
5. Construction and Maintenance. All signs and sign structures extending over any public property shall be securely fastened and constructed and maintained so that there is no unreasonable danger of collapse due to wind or other cause.
6. Visibility. No sign or sign structure extending over any public property shall obstruct the visibility of any traffic control device, otherwise interfere with the safe operation of motor vehicles, or encroach unnecessarily on the visibility of signage on other premises.
7. Illumination. No sign extending over any public property shall be illuminated in whole or in part by floodlights or spotlights or any type of intermittent lighting.

155.06 OFF-PREMISES SIGNS PROHIBITED. The erection or maintenance of an off-premises sign is prohibited and no permits for the same shall be issued.

155.07 MAINTENANCE. All signs and sign structures, together with all of their supports, braces, guys and anchors, shall be kept in good repair, in a

proper state of preservation, and free from any conditions posing an unreasonable risk of harm to the public. The sign faces of all signs shall be kept neatly painted or posted at all times.

155.08 PROHIBITED SIGNS GENERALLY. The signs hereinafter designated shall be prohibited throughout the City and it is unlawful for any person to erect or maintain any such sign:

1. Signs On Public Property. Any sign or sign structure located in whole or in part on any public property, except traffic and other public signs and signs specifically approved by the Council or other public authority with jurisdiction over the property.
2. Obstructions to Doors, Windows or Fire Escapes. Any sign or sign structure erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
3. Traffic Hazards. Any sign or sign structure located in any place where, by reason of its position, shape, color or size, may interfere with, obstruct the view of, or be confused with any official traffic control device, or which makes use of the words, "STOP," "LOOK," "DANGER," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic, except in the case of official traffic control devices.
4. Obsolete Signs. Any sign, together with its sign structure, that advertises an activity, business, product, or service which has not been conducted or offered on the premises on which the sign is located for sixty (60) days or more.
5. Abandoned Signs. Any sign or sign structure that has been abandoned and not used for sign purposes for at least six (6) months.

155.09 PRE-EXISTING NONCONFORMING SIGNS. If a sign exists on the effective date of this chapter or any amendment hereto which was lawful under all laws, including zoning laws, in effect immediately prior to the effective date, but which would not be allowed under the terms of this chapter or any amendment, the use and maintenance of such sign may be continued so long as it remains otherwise lawful, provided that such sign is not enlarged, relocated or reconstructed following the effective date of this chapter or amendment. No sign shall be deemed to exist as of the effective date of this chapter unless it has been completely erected prior to said effective date, or unless it has been, as of said effective date, partially erected under a valid permit issued prior to the effective date. Nothing contained in this section shall, however, permit the continued existence of those signs prohibited under Section

155.08 or excuse the proper maintenance of any sign under the provisions at Section 155.07.

155.10 PERMIT REQUIRED. Except as otherwise provided in this chapter, it is unlawful for any person to erect, repair, alter, relocate, reconstruct or maintain within the City any sign without first obtaining a sign permit for such sign from the Clerk and making payment to the Clerk of the permit fee.

155.11 PERMIT APPLICATION AND ISSUANCE.

1. Application. An application for a sign permit shall be made to the Clerk on a form provided by the City and shall contain or have attached thereto the following information:
 - A. Name, address and telephone number of the applicant.
 - B. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
 - C. A sketch indicating the position of the sign in relation to the lot lines, the buildings on the lot, and nearby buildings or structures.
 - D. A sketch of the proposed sign showing its dimensions and message, if any, together with a description of the materials from which it is to be made and its method of construction and attachment to the building or in the ground.
 - E. The name and address of the person erecting the sign.
 - F. Written consent of the owner of the building, structure or land on which the sign is to be erected or attached.
 - G. A description of the nature or type of any illumination planned for the sign.
 - H. Such other information as the Clerk shall require to show full compliance with this chapter and all other applicable ordinances of the City.
2. Permit Fee. A nonrefundable fee of \$20.00 shall accompany each permit application.
3. Issuance. A sign permit shall be issued by the Clerk when the application and the investigation thereof indicates compliance by the applicant with all provisions of this chapter and any other applicable laws. Any conditions imposed pursuant to subsection 4 of this section shall be clearly stated in the permit.

4. Conditions. In issuing a sign permit, the Clerk, in appropriate cases and after consulting with the Enforcement Officer, may impose special conditions regarding a proposed sign. Such conditions may be imposed only when reasonably necessary for public safety reasons and may include special restrictions or requirements relating to size, height, clearance between the ground and the sign face and setback from a premises boundary or street line.

5. Rejection and Appeal. If the Clerk rejects the application the reasons for such denial shall be given in writing to the applicant. Such notice of rejection shall also inform the applicant of the right to appeal from the rejection to the Council. If any application is denied or no action is taken by the Clerk within a reasonable time, the applicant shall have the right to appeal to the Council and the Council may reverse the decision of the Clerk. The applicant shall have the same right of appeal concerning any special conditions imposed by the Clerk in issuing any sign permit.

6. Records. A careful record of all permit applications and permits shall be maintained by the Clerk.

7. Validity. A sign permit is valid for six (6) months and, if the permitted sign is erected within that time, it shall remain valid until the sign is removed or until the permit is revoked, but no permit shall authorize the subsequent structural alteration or relocation of the sign for which it was issued. If the permitted sign is not erected within six (6) months of the date of issuance, the permit shall expire and be deemed revoked.

155.12 PERMITTED SIGNS. Subject to all other restrictions and prohibitions and the exemptions set forth in this chapter, only the signs specifically permitted in this section shall be lawful and no person shall erect, construct or maintain any sign or sign structure which is not authorized herein. All references to districts in this section mean the various zoning districts established under Chapter 165 of this Code of Ordinances. Sign permits are required for signs permitted by this section.

1. Signs Permitted in the “A-1”, “R-1”, “R-2” and “R-3” Districts.

A. One on-premises sign upon which is displayed the name of a religious institution, school, library, community center, or similar institution located on the premises and the announcement of its services or activities. Such sign shall have no more than two (2) sign faces, which shall be parallel to one another, and shall not exceed twenty-four (24) square feet in area per sign face. The sign may be a free-standing, wall or projecting sign. A free-

standing sign shall not be greater than six (6) feet in height measured from the ground. The setback or minimum yard requirement provided for the district in which the sign is or is proposed to be located shall apply to the location of the sign.

B. If the premises includes a multiple dwelling complex containing eight (8) or more units, one on-premises identification sign. Such sign, which may be a free-standing, wall or projecting sign, shall have no more than two (2) sign faces, which shall be parallel to one another. If the multiple dwelling complex contains eight (8) or more, but less than sixteen (16) dwelling units, each sign face shall not exceed eight (8) square feet in area. If the complex contains sixteen (16) or more units, each sign face shall not exceed twenty-four (24) square feet in area. A freestanding sign shall not be greater than six (6) feet in height measured from the ground. The setback or minimum yard requirement for the district in which the sign is or is proposed to be located shall apply to the location of the sign.

C. Undeveloped building lots in residential subdivisions may be advertized for sale as follows:

- (1) A free-standing sign with not more than two (2) sign faces and not exceeding twenty-four (24) square feet in area per sign face may be placed at a single location within or adjacent to the subdivision.
- (2) The sign shall not be greater than six (6) feet in height measured from the ground.
- (3) The setback or minimum yard requirement provided for the zoning district in which the sign is or is proposed to be located shall apply to the location of the sign.
- (4) Such signs shall be permitted only when there are two (2) or more undeveloped lots for sale in the subdivision and the permit shall be revoked if the sign is not removed by the permittee when fewer than two (2) lots remain.
- (5) Although a permit will not expire as long as two (2) or more undeveloped lots in a subdivision remain for sale, a subdivision lots for sale sign shall not be in place more than six (6) months in any year period following the date of permit issuance.

(6) A subdivision lots for sale sign is exempt from the prohibition of off-premises signs set forth in Section 155.06.

(7) For purposes of this subparagraph, the term “subdivision” shall be as defined in 166.05 of the Code.

(Ord. 378 – Dec. 14 Supp.)

2. Signs Permitted in the “R-4” Mobile Home District. If the premises includes a mobile home park containing ten (10) or more mobile home lots, one on-premises identification sign. Such sign, which may be a free-standing, wall or projecting sign, shall have no more than two (2) sign faces, which shall be parallel to one another, and shall not exceed twenty-four (24) square feet in area per sign face. A free-standing sign shall not be greater than six (6) feet in height measured from the ground. The setback or minimum yard requirement for the “R-4” district shall apply to the location of the sign.

3. Signs Permitted in the “C-1”, “C-2” and “M-1” Districts. Any or all of the following signs shall be permitted on each premises located in the “C-1”, “C-2” or “M-1” districts.

A. One on-premises free-standing sign having no more than two (2) sign faces, which shall be parallel to one another, and shall not exceed two hundred (200) square feet in area per sign face. Such sign shall not be greater than fifty (50) feet in height measured from the ground. If a premises has frontage on more than one street, one such sign shall be permitted for each frontage.

B. On-premises wall signs, which shall not be limited in number. However, the total square footage of the sign face areas of all wall signs shall not be greater than ten percent (10%) of the area of the wall upon which such signs are attached or displayed.

C. One on-premises roof sign having no more than two (2) sign faces, which shall be parallel to one another, and shall not exceed one hundred-fifty (150) square feet in area per sign face. Such sign shall not exceed eight (8) feet in height measured from the roof level to or on which it is erected or attached.

D. One on-premises projecting sign having no more than two (2) sign faces, which shall be parallel to one another, and shall not exceed fifty (50) square feet in area per sign face. Such sign shall not extend above the top of the building or structure wall to which it is attached.

E. Free-standing entrance and exit signs are permitted in addition to any other permitted signs. Such signs shall not be more than ten (10) square feet in area per sign face.

The setback or minimum yard requirement for the district in which the sign is or is proposed to be located shall apply to the location of the sign.

155.13 PERMIT REVOCATION. If a sign permit has been issued for a sign and the sign is thereafter erected or maintained in violation of the terms of the permit or any other provision of this chapter, the Council shall, following notice to the permit holder or any subsequent owner of the sign and an opportunity for a hearing before the Council, revoke the permit. If a sign permit is revoked, a new sign permit for the same or any similar sign shall not be issued for a period of one (1) year from the date of revocation. However, if a sign permit is issued and the sign is not erected, relocated or reconstructed as provided in the permit within six (6) months of the date of issuance, the permit shall be deemed automatically revoked without the necessity of notice, a hearing or action by the Council.

155.14 ENFORCEMENT AND VIOLATIONS.

1. Enforcement Officer. The Mayor shall designate an Enforcement Officer whose duty it shall be to inspect signs within the City for compliance with the requirements of this chapter. In the event any violations are found, the Enforcement Officer shall give written notice of the violation to the owner of the sign and demand removal or other corrective action within a reasonable amount of time. If the violation is

not corrected within the time provided, the Enforcement Officer shall report the violation to the Mayor and the City Attorney.

2. Violations. Any person who violates, disobeys, neglects or fails to comply with, or who resists the enforcement of, any of the provisions of this chapter or any of the terms and conditions of any sign permit shall be guilty of a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

3. Prevention and Abatement of Violations. If any sign is erected, constructed, reconstructed, altered, repaired, converted, moved, maintained or used in violation of this chapter or of the terms and conditions of any sign permit, the City Attorney, at the direction of the Council, shall, in addition to all other remedies, institute any appropriate action or proceeding in any court to prevent such unlawful act or to restrain, correct or abate such violation.

[The next page is 685]

CHAPTER 156

EROSION CONTROL

156.01 Purpose
156.02 Erosion Control

156.03 Permit

156.01 PURPOSE. It is the purpose of this chapter to protect the property of the City and its residents, and to preserve and improve the safety, health and welfare of its residents by minimizing erosion of soil and vegetation.

156.02 EROSION CONTROL. The owner of property on which the top soil or vegetation growth has been disturbed by reason of development activity or other cause shall be responsible for erosion control. A property owner shall take steps to prevent soil runoff from such property including, when reasonably necessary to prevent harm to public or other private property, the placement of siltation fences, berms, sediment basins, mulch or other control devices.

156.03 PERMIT. If a property owner will be disturbing over an acre of land, a Storm Water permit is required before disturbing any top soil or vegetation. An acre of land is 43,500 square feet. This permit must be obtained from the State of Iowa Department of Natural Resources before any land disturbance.

(Ch. 156 – Ord. 329 – Dec. 07 Supp.)

[The next page is 701]

CHAPTER 160

FLOODPLAIN MANAGEMENT REGULATIONS

160.01 Definitions

160.02 Statutory Authority, Findings of Fact and Purpose

160.03 General Provisions

160.04 Administration

160.05 Floodplain Management Standards

160.06 Variance Procedures

160.07 Nonconforming Uses

160.08 Penalties for Violation

160.09 Amendments

160.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance 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 all 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 160.05(1)(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” – 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 as a result 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 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 quarters 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 window panes;
 - 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, A1-30, 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, pier, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor,

or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

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 improvement” – Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historical structure.”

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the 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.

35. “Variance” – A grant of relief by a community from the terms of the floodplain management regulations.

36. “Violation” – The failure of 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 364, *Code of Iowa* as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
2. Findings of Fact.
 - A. The flood hazard areas of the City of Marquette 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.
3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Marquette and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this ordinance with provisions designed to:
 - A. 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.
 - B. 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.
 - C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

D. 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 and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Clayton County and Incorporated Areas, Marquette, Panels 19043C0087F, 0091F, 0095F, 0100F, dated July 22, 2020, which were prepared as part of the Clayton County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the base flood boundary, the location shall be determined on the basis of the base flood elevation at the particular site in question. The Flood Insurance Study for Clayton County is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

2. **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.

3. **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.

4. **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.

5. **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 areas of significant flood hazard will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of

Marquette 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.

6. 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 City Manager and/or City Clerk is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
 - B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - (1) Review all floodplain development permit applications to assure that the provisions of this ordinance will be satisfied.
 - (2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
 - (3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
 - (4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
 - (5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

- (6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
- (7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.
- (8) Maintain the accuracy of the community's Flood Insurance Rate Maps when:
 - a. Development placed within the Floodway results in any of the following:
 - (i) An increase in the Base Flood Elevations, or
 - (ii) Alteration to the floodway boundary
 - (iii) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
 - (iv) Development relocates or alters the channel.

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.

- (9) Perform site inspections to ensure compliance with the standards of this ordinance.

2. Floodplain Development Permit.

A. Permit Required. A floodplain development permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) 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 structure 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. Each application for a floodplain development permit shall be accompanied by a non-refundable fee of fifty dollars (\$50) payable to the City. No application shall be deemed filed and no action shall be taken with respect to an application until the application fee has been paid.

D. 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 Zoning Board of Adjustment.

E. 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, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

160.05 FLOODPLAIN MANAGEMENT STANDARDS.

1. General Floodplain Standards. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted 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 will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associate with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.

A. All Development. All development within the areas of significant flood hazard 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.
- (4) Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

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 City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures 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:

- a. 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.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

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 waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - (2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 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. 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. 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, structural flood control works shall be approved by the Department of Natural Resources.
- I. Watercourse Alterations or Relocations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In

addition, such alterations or relocations must be approved by the Department of Natural Resources.

J. Subdivisions. 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 area of significant flood hazard.

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.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

b. 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.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

e. 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.

f. The structure's walls shall include openings that satisfy the provisions of Section 160.05(1)(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 (160.05(1)(E) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of (160.05(1)(E) of this ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline River and Stream Crossings. 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% change 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.

2. Special Floodway Provisions. In addition to the general floodplain standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No development shall be permitted in the floodway 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 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 and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards

and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway 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.

160.06 VARIANCE PROCEDURES.

1. The Zoning 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 buildings than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors Upon Which the Decision of the Board Shall Be Based. In passing upon applications for variances, the board shall consider all relevant factors specified in other sections of this ordinance and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the City.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with the existing development and development anticipated in the foreseeable future.

- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
 - L. 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.
 - M. Such other factors which are relevant to the purpose of this ordinance.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Council 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:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. 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.
 - E. 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 Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.07 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.

2. 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.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this ordinance or failure to comply with any of the requirements 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 five hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Marquette from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

(Ch. 160 – Ord. 411 – Nov. 20 Supp.)

[The next page is 745]

CHAPTER 165

ZONING REGULATIONS

| | |
|---|---|
| 165.01 Title | 165.26 Separate Offenses May Be Charged |
| 165.02 Purpose | 165.27 Other Remedies |
| 165.03 Definitions | 165.28 Building Permit |
| 165.04 Establishment of Districts | 165.29 Application for Building Permit |
| 165.05 Adoption of Official Zoning Map | 165.30 Fees |
| 165.06 Identification of Official Zoning Map | 165.30A Permit Expiration |
| 165.07 Changes in Official Zoning Map | 165.30B Certificate of Compliance |
| 165.08 Amending the Zoning Map | 165.31 Board of Adjustment Created |
| 165.09 Interpretation of District Boundaries | 165.32 Election of Chairperson |
| 165.10 Schedules of District Regulations | 165.33 Proceedings of the Board of Adjustment |
| 165.11 Supplementary District Regulations | 165.34 Hearings, Appeals and Notice |
| 165.12 Application of District Regulations | 165.35 Notice |
| 165.13 Nonconformities | 165.36 Appeal Fee |
| 165.14 Nonconformities May Continue | 165.37 Stay of Proceedings |
| 165.15 Nonconformities May Not Be Enlarged | 165.38 Board of Adjustment Powers and Duties |
| 165.16 Nonconforming at Adoption | 165.39 Conditions of Variance |
| 165.17 Nonconforming Uses of Land | 165.39A Council Review of Variance Grants |
| 165.18 Nonconforming Structures | 165.40 Decisions of the Board of Adjustment |
| 165.19 Nonconforming Uses of Structures | 165.41 Appeals from the Board of Adjustment |
| 165.20 Repairs and Maintenance | 165.42 Changes and Amendments |
| 165.21 Uses Under Exception Provisions Not Nonconforming | 165.43 Style of Amendment |
| 165.22 Administration and Enforcement | 165.44 Application for Change of Zoning District Boundaries |
| 165.23 Appeals from Decision of Administrative Officer | 165.45 Solar Access Easements |
| 165.24 Interpretation of Provisions | 165.46 Zero Lot Line Development |
| 165.25 Violation and Penalties | 165.47 Bluff Land Conservation Zoning Overlay District |
| | 165.48 Trailer Camps and/or Tourist Campgrounds |

165.01 TITLE. This chapter shall be known and cited as “The Zoning Ordinance of the City of Marquette.”

165.02 PURPOSE. The Council deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic, and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of buildings and encourage the most appropriate use of the land throughout the City; all in accordance with a comprehensive plan, and to that end to adopt this zoning ordinance setting out regulations therefor.

165.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are hereby defined.

1. “Accessory use or structure” means a use or structure, including a portable building, subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land. An accessory use shall not have the effect of establishing a use or structure

not permitted in the zoning district it is in. An accessory structure shall not be used for residential or institutional purposes and shall have a minimum size of 64 square feet and a maximum height of 9 feet. Any pre-fabricated structures shall be erected or placed in accordance with manufacturer's specifications. *(Ord. 348 – Dec. 10 Supp.)*

2. "Administrative Officer" means the individual designated by the Council to administer the Zoning Ordinance. This person may also be referred to as the "Zoning Administrator."

3. "Agriculture" means the use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for treating or storing the produce, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. "Agriculture" includes commercial animal or poultry feeding in confined lots or buildings as defined herein.

4. "Alley" means a public thoroughfare which affords only a secondary means of access to abutting property.

5. "Alterations, structural" means any change in the supporting members of building such as bearing walls, columns, beams, or girders.

6. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.

7. "Apartment house" means a building arranged, intended, or designed to be occupied by three or more families living independently of each other.

8. "Basement" means a story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations. Also see "cellar."

9. "Bed and breakfast/bath home" means a home occupation (refer to "home occupation" as defined in this section) that provides 1 to 3 rooms (limited to 2 persons or one family unit/room) for occasional paying guests on an overnight basis for periods not to exceed 14 days with breakfast or bath being available on premises at no additional cost. A bed and breakfast/bath home is allowable only in a building originally constructed as a one-family dwelling.

10. "Billboard" - See Chapter 155 of this Code of Ordinances.

11. "Board" means the Zoning Board of Adjustment of the City.

12. “Boarding house” means a building originally constructed as a single-family dwelling, and currently occupied as a permanent residence by the owner or lessee thereof, where, for compensation, lodging and meals are provided for three or more persons, but which does not qualify as a “bed and breakfast/bath home.”

13. “Building (structure)” means anything constructed, erected or built, the use of which requires more or less permanent location on ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind. For purposes of this chapter, “building” shall include fences but does not include sidewalks, driveways, ground level patios, vegetation and customary lawn ornaments. *(Ords. 367 & 373 – Dec. 13 Supp.)*

14. “Building, height of” means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or ridge of gable, hip and gambrel roofs.

15. “Building line” means the farthest protruding section of any side of the building, excluding uncovered porches or patios not exceeding 30 inches in height above the maximum grade. See “yard, front”; “yard, rear”; and “yard, side” (as defined in this section).

16. “Building, main” means a building containing the principal use of the lot, as distinguished from the accessory use.

17. “Building permit” means a certificate issued by the City for erecting a new structure or altering to increase the exterior dimensions, or increase the number of dwelling units, or to accommodate a change in usage of the building.

18. “Bulk station” means a distributing station commonly known as bulk or tank station used for the storage and distribution of flammable liquids or liquefied petroleum products where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

19. “Business/commercial,” when used in this chapter, refers to the engaging in the purchase, sale, or exchange of goods, services, or the operation for profit of offices, recreational or amusement enterprises.

20. “Camper” – see “travel trailer” and “motor homes.”

21. “Campground” means a plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes.

22. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For

the purpose of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

23. “Cellar” means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement. Also see “basement.”

24. “Clinic” means a building or buildings used by physicians, lawyers, dentists, osteopaths, chiropractors, and all professions for outpatient care of persons requiring such professional service; does not include veterinary clinics.

25. “Commercial animal or poultry feeding” means the feeding of livestock, poultry, or other animals in confined feed lots, dry lots, pens, cages, or buildings as a commercial enterprise:

A. When not in conjunction with a farming operation, or

B. When feeding more than one thousand head of livestock or five thousand chickens, turkeys, or laying hens.

26. “Commission” means the Zoning Commission of the City.

27. “Condominium” means a residential or commercial building consisting of multiple units, each under individual ownership of the space contained within each unit and co-ownership of the remaining real property by the individual owners as tenants in common, subject to certain joint agreements and regulations.

28. “Day nursery, nursery school, or day care (public)” means any agency (for-profit and not-for-profit), institution, establishment, or place which provides supplemental parental care and/or educational work, other than lodging overnight, for seven (7) or more children of preschool age for compensation.

29. “District” means a section of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

30. “Drive-in restaurant” means any place or premises used for the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

31. “Dwelling” means any building or portion thereof which is designed for and used exclusively for residential purposes.

32. “Dwelling, multiple” means a building designed for or occupied exclusively by more than two families, excluding condominiums, townhouses/rowhouses.

33. “Dwelling, single-family” means a building designed for or occupied by one family.

34. “Dwelling, two-family” means a building designed for or occupied by two families.

35. “Dwelling unit” means one room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a weekly, monthly, or other basis, and physically separated from any other rooms or dwelling units which may be located in the same structure, and containing independent cooking and sleeping facilities.

36. “Family” means an individual, or two or more persons related by blood, marriage, adoption, foster child arrangement, or similar legal relationship and functioning as a single housekeeping entity, or such individual or persons plus not more than three individuals not having such similar legal relationship but functioning as a part of the single housekeeping entity.

37. “Farm” means an area of ten (10) acres or more which is used for the growing of the usual farm products such as vegetables, fruits, trees, and grain, and their storage on the area as well as for the raising thereon of the usual farm poultry and farm animals. The term “farming” includes the operating of such an area for one (1) or more of the above uses including the necessary accessory uses for treating or storing the produce, provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities and provided further that “farming” does not include the feeding of garbage or offal to swine or other animals.

38. “Farmstead dwelling” means a dwelling located on a farm and occupied by a person or family employed fully or partially in the agricultural pursuits of the farm on which it is located.

39. “Floor area” means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. “Floor area” does not include porches, garages, or space in a basement or cellar, which is used for storage or incidental use.

40. “Frontage” means all the property on one side of the street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the

property abutting on one side between an intersecting street and the dead end of the street.

41. “Garage, private” means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle.

42. “Garage, public” means a building or portion thereof other than a private or storage garage designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

43. “Garage, storage” means any building or premises, including a mini-storage garage, used for storing motor-driven vehicles (other than commercial vehicles), recreational vehicles and trailers, boats, furniture, or other miscellaneous personal property, excluding such things as automobile fuels and oils or other hazardous or volatile substances, pursuant to previous arrangements.

44. “Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

45. “Group home” means a “family home” as defined in Iowa Code Section 414.22, including an elder family home as provided in Iowa Code Section 414.29, a home for persons with physical disabilities as provided in Iowa Code Section 414.30, and an elder group home as provided in Iowa Code Sections 414.31.

46. “Hazardous waste” means waste designated as hazardous by the United States Environmental Protection Agency or appropriate State agency.

47. “Home occupation” means an occupation or a profession which:

- A. Is customarily carried on residential property, and
- B. Is carried on by a member of the family residing in the residence, and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- D. Does not employ more than one person outside the resident family, and
- E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or

variation from the residential character of the property, other than one exterior sign mounted flush with the face of the building, which sign shall conform to Chapter 155 of this Code of Ordinances, and

F. Does not occupy more than fifty percent (50%) of the area of one floor of the dwelling unit, and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

“Home occupation” may include but is not necessarily limited to arts or crafts businesses, catering, upholstery, photography, childcare, and bicycle repair. “Home occupation” does not include auto repair, animal breeding or boarding, and paint shops.

48. “Home occupation, farmstead” means an occupation customarily engaged in on a farm, as a supplementary source of income, which:

A. Is clearly incidental and secondary to the operation of the farm, and

B. Is carried on by a member of the family residing on the farmstead dwelling, and

C. Does not employ more than one person outside the resident family, and

D. Is conducted within or adjacent to the farmstead dwelling or the customary farm outbuildings, and

E. Has no exterior displays, or storage of materials visible from the public road, or other exterior indication or variation from the agricultural character of the farm, and

F. Conforms to the requirements of Chapter 155 with regard to signs; and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat, glare or electrical interference detectable within the limits of the nearest neighboring farmstead or dwelling.

49. “Hotel, motel, or tourist cabin” means any permanent dwelling, or group of permanent dwellings located on the same lot, with or without cooking facilities, offered for rent or use on a fee basis for periods of 14 days or less. A hotel or motel may contain the permanent residence of the owner or manager thereof. However, any use which qualifies as a “bed and breakfast/bath home” shall not be deemed a hotel or motel.

50. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.
51. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
52. "Junk or salvage yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such activities are conducted entirely within a completely enclosed building. The presence on any lot of record of two (2) or more vehicles without current registration which for a period exceeding thirty (30) days, have not been capable of operating under their own power, and from which parts have been removed for reuse, salvage, or sale, constitute prima facie evidence of a junk yard.
53. "Kennel/stables" means a building or structure used or intended to be used for the housing of horses and/or small animals. Riding instruction may be given in connection with the stable or riding academy.
54. "Loading space" means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum dimensions of twelve by thirty-five feet and vertical clearance of at least fourteen feet.
55. "Lot, corner" means a lot abutting upon two or more streets at their intersections.
56. "Lot, depth of" means the mean horizontal distance between the front and rear lot lines.
57. "Lot, double frontage" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.
58. "Lot, interior" means a lot other than a corner lot.
59. "Lot line" means the boundary of a lot. Where the actual boundary of a lot extends onto a public street easement, the lot line for zoning purposes shall be the boundary of the easement.
60. "Lot width" means the width of a lot measured at any building line and at right angles to its depth.

61. “Lot” means a single tract of land, under common ownership and/or legal control, used as a unit or designated in a building permit application to be used as one unit. A lot may be composed of one or more platted lots or parcels described by metes and bounds. It shall be large enough to meet minimum requirements of the zone.

62. “Manufactured home” means a factory built structure used or designed for the use as a place for human habitation, but which is not equipped with a permanent hitch or other features allowing it to be moved, except to a permanent site where they must be removed and the structure mounted on a permanent foundation.

63. “Mobile home” means a portable structure built, with or without motor power, used or designed for use as a place for human habitation, but which is not a “manufactured home,” “motor home,” or “travel trailer or camping trailer,” as defined in this section, or a mobile home converted to real estate.

64. “Mobile home converted to real estate” means an unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, the mobile home title, registration and license plates collected from the owner and the property entered on the tax rolls of the County.

65. “Mobile home park” means any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored either free of charge or for revenue purposes and includes any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

66. “Mobile vendor” means any retail merchant not operating from a building or structure as defined in subsection 13 of this section. However, this chapter shall not apply to a “peddler” or “solicitor,” as defined in Chapter 122 of this Code of Ordinances, who does not operate from a fixed location within the City.

67. “Motel” – Refer to “hotel.”

68. “Motor home” means a vehicle with motive power used or designed for use for conveyance upon public streets and highways and as a place for human habitation and customarily or ordinarily used for vacation or recreational purposes and not as a place of permanent habitation. If a motor home is used as a place of human habitation for more than 45 consecutive days in one location, it shall be classified as a

mobile home unless it is located on a campsite in a trailer camp/tourist campground. *(Ord. 377 – Dec. 14 Supp.)*

69. “Nonconforming use” means any building or land lawfully used at the time of the effective date of the Zoning Ordinance which does not conform after the effective date of the Zoning Ordinance with the use regulations of the District in which it is situated.

70. “Nuisance” means any noise, odor, vibration, smoke, air pollution, liquid or solid waste, glare, heat, or dust condition which creates an irritation, annoyance, or health hazard.

71. “Nursing home” means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept and provided food, shelter, and care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment, or care of the sick and injured, or group homes.

72. “Owner” means the person or persons who hold the fee simple title to the property and person or persons who have acquired any interest in the property by contract of purchase or otherwise.

73. “Parking space” means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred eight (108) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

74. “Place” means any open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

74A. “Portable building – refer to “Accessory use or structure.” *(Ord. 348 – Dec. 10 Supp.)*

75. “Premises” means the land together with any buildings or structure located thereon.

76. “Public housing” means public housing developments, rest, nursing, and convalescent homes; homes for orphans and aged, excluding group homes, provided that such use is compatible with surrounding development and that adequate off-street parking is provided.

77. “Recreation vehicle” includes boats and other watercraft, snowmobiles, and trailers for transporting such vehicles.

78. “Recyclable materials” includes, but is not limited to:

- A. Newspapers
 - B. Paper (brown, high quality white, computer)
 - C. Corrugated cardboard
 - D. Glass bottles
 - E. Certain types of plastics and plastic containers
 - F. Scrap metals, such as tin cans, aluminum cans, and foil
 - G. Styrofoam products
79. “Recycling” means the collection of used materials such as newspapers, cans, corrugated cardboard, etc., and the conversion thereof into new products by reprocessing or re-manufacturing.
80. “Recycling drop boxes” means containers designed for collection of recyclable materials, no processing allowed. Restrictions:
- A. Industrial and commercial zones
 - B. All collected items must be fully contained within drop box
 - C. Sign on drop box to identify purpose
81. “Recycling plant/community recycling center” means a totally enclosed building within which the receipt, separation, storage, conversion, baling, and/or processing of paper, iron, metal, glass, newspaper, and other non-biodegradable recyclable materials can occur for the purpose of reutilization of such materials.
- A. All outdoor storage of salvageable materials shall be contained within bins, or pallets located on paved area.
 - B. All storage areas shall be enclosed by view obscuring walls, fences, or buildings. No storage facilities shall be seen from a public right-of-way or from any residential land use.
 - C. All separation, sorting, processing, baling, or other activities shall occur entirely within an enclosed building.
 - D. The ambient noise level shall not be increased as measured at any property line.
 - E. The facility and signage shall be unobtrusive and compatible with the area surrounding the subject site.
 - F. No garbage or food wastes shall be permitted at the site. If any incidental amounts of biodegradable refuse material enters the site; it shall be removed by the next working day or within 48 hours of entering the site, whichever is sooner.

- G. Liquid wastes, hazardous and biodegradable materials, including but not limited to food, beverages, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides, and other similar materials shall not be permitted on the site.
- H. The owner/operator of the salvage site shall prevent or eliminate immediately any nuisance created by dust, odors, blowing material, litter, ponding water, noise, or other nuisance.
- I. All building and structures within the site be rodent-proofed and any rodent infestation shall be controlled immediately.
- J. Any infestation or accumulation of flies or other insects of public health significance shall be immediately controlled.
- K. In anticipation of emergency situations (breakdown of facilities, power failure, landfill closure), provisions are made to ensure non-salvageable waste materials will be properly contained and that no continuous storage be allowed.
- L. Any representative of regulatory governmental agency shall be permitted access to the recycling plant at any reasonable time for the purpose of obtaining information or inspecting operations.
- M. Burning of waste shall be prohibited.
- N. Fire protection and prevention facilities, including, but not limited to, fire sprinklers, shall be provided in a manner subject to approval of the Fire Marshal.
- O. A detailed site and operations plan, including, but not limited to, traffic routes, shall be subject to approval of the Commission.
- P. Violation of any condition or any terms set forth shall result in the immediate closing of the recycling plant until such time as the violations are corrected to the satisfaction of the applicable regulatory agency.
- Q. A recycling plant shall not be located on a property located within 400 feet of any "R" structure or any property containing a public or institutional land use (for example, a church, school, park, or library).
- R. Restrictions. Industrial zone only.
82. "Row house" – see "town house."

83. “Sign” means any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

84. “Solid waste transfer station” means an enclosed building which serves as a receiving station for solid waste or recyclables delivered by commercial garbage haulers and/or the general public. The transfer station is an interim storage and transfer point between the collection route and a disposal site. A solid waste transfer station may provide for processing and recycling of solid waste. Restrictions:

- A. Industrial Zone Only.
- B. No exposed materials.
- C. Nothing to constitute a nuisance.

85. “Special exception” means a use that would not be appropriate generally or without restriction throughout the zoning division or district but which if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provision for such special exceptions is made in this Zoning Ordinance.

86. “Story” means that portion of a building other than a cellar included between the surface of any floor and the surface of the floor next above it or; if there is no floor above it, then the space between the floor and the ceiling next above it.

87. “Story, half” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

88. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.

89. “Street line” means the right-of-way of a street.

90. “Structure” – refer to “building.”

91. “Townhouse/rowhouse” means multiple family dwellings with each maintaining private ingress and egress, attached to its own foundation with no independent dwelling above or below each unit, and which is further attached to other single family dwellings by a common or party wall.

92. “Trailer camp or tourist campground” means any area providing spaces for two or more motor homes, travel trailers, camping trailers or tent sites for temporary occupancy with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

(Ord. 377 – Dec. 14 Supp.)

93. “Travel trailer or camping trailer” means a vehicle without motive power used or designed for the use as a conveyance on public streets or highways and as a place for human habitation and customarily or ordinarily used for vacation or recreational purposes and not as a place of permanent habitation. If used as a place of human habitation for more than 45 consecutive days in one location it shall be classified as a mobile home unless it is located on a campsite in a trailer camp/tourist campground.

(Ord. 377 – Dec. 14 Supp.)

94. “Variance” means a relaxation of the terms of this Zoning Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

95. “Yard” means an open space between a building line and the adjoining lot lines unoccupied except for accessory structures unless specifically prohibited. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the building line.

96. “Yard, front” means a yard extending, in width, between the side lot lines and extending, in depth, between the front lot line and the nearest side or point of the building line.

97. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the nearest side of the building line.

98. “Yard, side” means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and between a side lot line and the nearest side of the building line.

165.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into districts, which shall be designated as follows:

- A-1 Limited Agricultural
- R-1 Single-Family Residential
- R-2 Single-Family Residential
- R-3 Mixed Residential
- R-4 Mobile Home Park
- C-1 Highway Commercial
- C-2 General Retail and Office
- M-1 Industrial

The location and boundaries of these districts are shown on the Official Zoning Map.

165.05 ADOPTION OF OFFICIAL ZONING MAP. The Official Zoning Map and the explanatory material thereon are hereby adopted by reference and declared to be part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The Official Zoning Map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

This is to certify that this is the Official Zoning Map referred to in Section 165.05 of the Zoning Ordinance of Marquette, Iowa, as adopted the ____ day of _____, _____."

The Official Zoning Map shall be on file in the City office and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.

165.07 CHANGES IN OFFICIAL ZONING MAP. No changes in the Official Zoning Map shall be made except as may be required by amendments to this chapter under Section 165.43 herein. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the Official Zoning map. Any unauthorized change of any kind whatsoever in the Official Zoning Map by any person or persons shall constitute a violation of this ordinance and be punishable as provided in Section 165.25 of this chapter.

165.08 AMENDING THE ZONING MAP. Amendments to the official zoning map shall be in the form of an ordinance giving a legal description of the land involved and the name of the district into which it is to be placed and if removed from a district, the name of such district. A copy of such amending

ordinance shall be attached to the official map and noted on the map. At not more than five-year intervals such amendments shall be incorporated into the map and, if necessary for clarity, the map may be redrawn, correcting errors or omissions and the new map certified as the new official zoning map of the date of certification by the Mayor and Clerk, but no correction or addition shall cause a change in the original map except as amended by the Council. (*See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.*)

165.09 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township lines or section lines shall be construed as following said township lines or section lines.
4. Boundaries indicated as following shore lines of streams or other bodies of water shall be construed to follow such shore lines, and in the event of change in the shore lines shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines, and in the event of change in the center line shall be construed as moving with the actual centerlines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.
7. Where a district boundary divides a lot which was in single ownership at the time of the effective date of the Zoning Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot into the remaining portion of

the lot, so long as such extension does not extend more than fifty feet beyond the district boundary.

165.10 SCHEDULES OF DISTRICT REGULATIONS. The following schedules of district regulations are hereby adopted and declared to be a part of this chapter:

- A-1 Limited Agricultural
- R-1 Single-Family Residential
- R-2 Single-Family Residential
- R-3 Mixed Residential
- R-4 Mobile Home Park
- C-1 Highway Commercial
- C-2 General Retail and Office
- M-1 Industrial

**LIMITED AGRICULTURAL
A-1**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|---|---|
| 1. Agriculture, horticulture, dairy farming, livestock farming, poultry farming, general farming and other agricultural | None |
| 2. Single-family dwellings (Refer to Special Requirements Section) | 2 spaces per unit |
| 3. Parks, playgrounds or playfields | 5 spaces for each acre developed for active usage |
| 4. Fairgrounds | 25 spaces plus 1 space for every 4 seats in the main stadium or auditorium |
| 5. Cemetery or mausoleum | None |
| 6. Elementary or secondary school | 1 space per classroom and office plus 1 space for every 6 seats in the main auditorium or stadium |
| 7. Churches and temples | 1 space for every 4 seats in the main auditorium |
| 8. Golf courses and country clubs except miniature courses or driving ranges operated for a profit | 3 spaces per green or 1 space for every 100sq. ft. of floor area whichever is greater |
| 9. Community meeting or recreation building | 1 space for every 50 sq. ft of area |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Farm buildings incidental to agricultural uses.
2. Private garages.
3. Private swimming pools and tennis courts.
4. Private greenhouses.
5. Uses and structures clearly incidental and necessary to the permitted uses or structures of this district, and farmstead home occupations, but not involving the conducting of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership.
6. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon the completion of the construction work.
7. Seasonal vegetable stands no larger than 500 sq. ft. with no customer parking on public highways or streets.
8. Fences - As necessary for livestock confinement. House yard fences not to exceed 4 foot front or 6 foot side or rear yards.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Stables and kennels provided the facility is at least 1,000 ft. from any dwelling unit other than that of the owner.
2. Railroads and public utilities but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or

building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.

3. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to their full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking space per employee and one (1) space for each vehicle used by the facility be provided.
4. Livestock sales barns, parking same as fairgrounds.
5. Rock quarries and/or gravel storage.
6. Bed & Breakfast/Bath Homes.

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT, SIDE AND REAR YARD | MAXIMUM HEIGHT |
|--|--|-----------------------|
| <p>Area – 20,000 sq. ft. Width – 125 feet</p> <p>The lot area shall be increased by such amount as determined necessary by the County Board of Health to provide an adequate absorption field for a septic tank installation.</p> <p>Where a lot is served by a public or community water system and sanitary sewer system, the minimum lot area may be reduced to 15,000 sq. ft. and the width to 100 ft.</p> | <p>Dwellings and other non-institutional uses:</p> <p>Front: 10 feet Rear:..... 6 feet Side 10 feet</p> <p>Schools, Churches or Other Public or Institutional Buildings:</p> <p>Front: 10 feet Rear:..... 6 feet Side: 10 feet</p> | <p>35 Feet</p> |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. No building permit shall be issued for a dwelling in the A-1 Limited Agricultural District for any parcel of land that is designated for commercial or industrial uses on the Future Land Use Plan of the City.
2. Single-family dwellings are permitted only if one or more of the occupants are engaged on a full-time or part-time basis in farming activities either on the same property or elsewhere in the A-1 district.
3. Refer to Section 165.11.

SINGLE-FAMILY RESIDENTIAL DISTRICT

R-1

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|--------------------------------------|---|
| 1. Single-family dwelling | 2 spaces per unit |
| 2. Park, playground or playfield | 5 spaces for each acre developed for active usage |
| 3. Group homes | 1 space per employee and 1 per each 2 residents |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Accessory uses and structures as defined in subsection 165.03(1), not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership. *(Ord. 348 – Dec. 10 Supp.)*
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. Satellite dishes.
8. Fuel tanks 1,000 gallons or less for home heating.
9. Fences, except barbed wire, electric, or any other potentially hazardous types, not exceeding a height of 4 feet in front yard or 6 feet in rear or side yards.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
2. Two family dwellings.
3. Bed & Breakfast/Bath Homes.
4. Zero lot line development as provided in Section 165.46. *(Ord. 346 – Dec. 10 Supp.)*

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT, SIDE AND REAR YARD | MAXIMUM HEIGHT |
|--|--|-----------------------|
| Area - 5,000 sq. ft. Width - 50 ft. The lot area shall be increased by such amount as determined by the County Board of Health to provide an adequate absorption field for a septic tank installation. | Dwellings and other non-institutional uses: Front:..... 10 feet Rear:..... 10 feet Side: 6 feet | 35 ft. |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-1 Districts shall have a minimum main floor of 600 square feet, per dwelling unit, excluding porches, garages and accessory buildings.
2. A detached building shall be located a minimum of five (5) feet from the principal structure, and twenty (20) feet from the front property line.
3. Structure attached to the principal building shall be considered part of the principal building and shall conform to the same front, side and rear setback regulations.
5. Garages opening onto the alley shall have a rear yard of eighteen (18) feet.
6. The minimum length and width of principal and all residential structures shall be twenty-four (24) feet, measured at the narrowest points, excluding attached garages, porches and breezeways.

**SINGLE-FAMILY RESIDENTIAL DISTRICT
R-2**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|--------------------------------------|---|
| 1. Single-family dwelling | 2 spaces per unit |
| 2. Two-family dwelling | 4 spaces |
| 3. Park, playground or playfield | 5 spaces for each acre developed for active usage |
| 4. Elementary or secondary school | 1 space per classroom and office plus one space for every 6 seats in the main auditorium or stadium |
| 5. Group homes | 1 space per employee and 1 per each 2 residents |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purposes.
4. Accessory uses and structures as defined in subsection 165.03(1), not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership. *(Ord. 348 – Dec. 10 Supp.)*
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. Fuel tanks for home heating.
8. Fences, except barbed wire, electric, or any other potentially hazardous types, not exceeding a height of 4 feet in front yard or 6 feet in rear and side yards.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
2. Bed and Breakfast/Bath Home with adequate parking.
3. Satellite dishes.
4. Parks or playgrounds.
5. Zero lot line development as provided in Section 165.46. *(Ord. 346 – Dec. 10 Supp.)*

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT, SIDE AND REAR YARD | MAXIMUM HEIGHT |
|--|---|----------------|
| (Special yard requirements for the original town lots) Single-Family dwellings: Area - 2,500 sq. ft Width - 25 feet Two-family dwelling: Area - 2,500 sq. ft Width - 25 feet | Dwellings and other non-institutional uses: Front: 10 feet Rear:..... 10 feet Side: 6 feet | 35 ft. |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-2 Districts shall have a minimum main floor of 600 square feet, per dwelling unit, excluding porches, garages and accessory buildings.
2. Refer to Section 165.11 rules.
3. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side and rear setback regulations.

**MIXED RESIDENTIAL DISTRICT
R-3**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|---|---|
| 1. Single-family dwelling | 2 spaces per unit |
| 2. Two-family dwelling | 2 spaces per unit; 4 space minimum |
| 3. Condominiums, Townhouses/Rowhouses | 2 spaces per unit |
| 4. Multiple family dwelling | 2 spaces per unit; 4 space minimum |
| 5. Community meeting or recreation building | 1 space for every 100 sq. ft. of floor area |
| 6. Park, playground or playfield | 5 spaces for each acre developed for active usage |
| 7. Elementary or secondary school | 1 space per classroom and office plus one space for every 6 seats in the main auditorium or stadium |
| 8. Day Nurseries/Centers | 1 space plus space for each employee |
| 9. Churches and Temples | 1 space for every 4 seats in the auditorium |
| 10. Funeral parlor | 1 space for every 4 seats in the main chapel |
| 11. Public housing | 1 space per unit |
| 12. Boardinghouse | 1 space for every 2 beds |
| 13. Bed and Breakfast/Bath Homes | 1 space per bedroom |
| 14. Hospital and Medical clinics | 1 space per 150 sq. ft. |
| 15. Group homes | 1 space per employee and 1 per each 2 residents |
| 16. Hotel, Motels, or Tourist Cabins | 1 space per unit |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garages.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purpose.
4. Accessory uses and structures as defined in subsection 165.03(1), not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership. *(Ord. 348 – Dec. 10 Supp.)*
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.
7. Fuel tanks for home heating.
8. Fences, except barbed wire, electric, or other potentially hazardous type.
9. Satellite dishes.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38 and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Sanitariums, rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this chapter shall be provided.
2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
3. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit.
4. Greenhouses.
5. Zero lot line development as provided in Section 165.46. *(Ord. 346 – Dec. 10 Supp.)*

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT, SIDE AND REAR YARD | MAXIMUM HEIGHT |
|--|--|-----------------------|
| Single-family dwellings: Area - 5,000 sq. ft Width - 50 feet Two-family dwelling: Area - 5,000 sq. ft Width - 50 feet Multiple dwelling, Condominiums, Townhouses/Rowhouses Area - 7,500 sq. ft. for 3 units plus 1,000 sq. ft for each additional unit. Width - 75 feet | Dwellings and other non-institutional uses: Front: 10 feet Rear:..... 10 feet Side: 6 feet Schools, Churches or other Public or Institutional Buildings: Front: 10 feet Rear:..... 10 feet Side: 6 feet | 35 ft. |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. All new structures constructed or placed in R-3 Districts shall have a minimum main floor of 600 square feet per dwelling unit, excluding porches, garages, and accessory buildings.
2. A detached building shall be located a minimum of five (5) feet from the principal structure, and fifteen (15) feet from the front property line.
3. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear setback regulations.
4. Garages opening onto the alley shall have a rear yard of eighteen (18) feet.

**MOBILE HOME PARK DISTRICT
R-4**

STATEMENT OF INTENT

The R-4 Mobile Home Park District is established to accommodate mobile home parks where their use will be compatible with existing and indicated future development.

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|---|---|
| 1. Single-family dwelling | 2 spaces per unit |
| 2. Two-family mobile homes | 2 spaces per family unit |
| 3. Parks and recreation area not operated for profit | 5 spaces for each acre developed for active usage |
| 4. Community meeting or recreation building not operated for profit | 1 space for every 100 sq. ft. of floor area |
| 5. Nursery schools and day care centers | 3 spaces plus 1 for each employee |
| 6. Laundromat | 1 space per 100 sq. ft. of floor area |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garages.
2. Private swimming pools and tennis courts.
3. Private greenhouses not operated for commercial purpose.
4. Accessory uses and structures as defined in subsection 165.03(1), not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership. *(Ord. 348 – Dec. 10 Supp.)*
5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
6. Solar collectors.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38 and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than ten (10) feet, and that two (2) parking spaces per substation or one (1) per employee at the site be provided.
2. Satellite dishes.
3. Fuel tanks for home heating.
4. Fences, except barbed wire, electric, or other hazardous types.
5. The home of the mobile home park owner and/or manager.

| MINIMUM LOT AREA AND WIDTH | MINIMUM YARD FRONT, SIDE AND REAR YARD | MAXIMUM HEIGHT |
|--|---|-----------------------|
| Mobile Home Rental Lot Area 3,500 sq. ft. Width 35 feet Minimum Mobile Home Park Size – 10 Units | Perimeter of mobile home park set back 15 ft. Refer to Section 165.11(1) | 20 feet |
| Permanent single-family residence for park owner or manager Area – 5,000 sq. ft. Width – 50 feet | Front: 10 feet Rear:..... 5 feet Side: One story 5 feet Refer to 165.11(1) | 35 feet |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

Each mobile home park owner shall provide the City with a copy of a scaled map of the mobile home park showing lot locations and boundaries, roads and drives, the location of all sewer and water service lines, wells, septic systems, the property boundaries, and location of public street access.

**HIGHWAY COMMERCIAL
C-1**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|--|--|
| 1. Automotive display, sales, services, and repair | 1 space for every 300 sq. ft. of sales, service or office floor area |
| 2. Dry cleaners or laundry | |
| 3. Monument and marker display and sales | |
| 4. Greenhouse and plant nursery | 1 space for every 100 sq. ft. of floor area |
| 5. Restaurant, night club, café or tavern | |
| 6. Dance hall and skating rink | 1 space per 100 sq. ft. of floor area |
| 7. Drive-in eating and drinking establishment | 1 space per 100 sq. ft. of floor area |
| 8. Bowling alley | 5 spaces per lane or alley |
| 9. Drive-in bank | 4 spaces per teller window |
| 10. Motel, hotel or tourist cabins | 1 space per unit |
| 11. Dwelling unit above a store or shop | 1 space per unit |
| 12. Bus terminal | 6 spaces plus one off-street loading space for each bus serving the terminal |
| 13. Funeral parlor | 1 space per every 4seats in the main auditorium |
| 14. Farm implement display, sales, service and repair | 1 space for each employee plus 1 space for each vehicle used by the industry |
| 15. Public utilities but not including storage or maintenance yards and building | 1 space for every 100 sq. ft. of sales, services, and office and office floor area |
| 16. Boat, motors, travel trailers and mobile home display, sales, service and repair | |
| 17. Retail businesses | |
| 18. Personal service and repair shops | |
| 19. Business and professional offices and studios | |
| 20. Laboratories or research establishments | |
| 21. General administrative offices | |
| 22. Community meeting or recreation building | |
| 23. Animal hospital or kennel | |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
4. Fuel tanks for heating.
5. Satellite dishes.
6. Fences, except barbed wire, electric, or other potentially hazardous types. In side or rear yards “security fences” may be permitted. Barbed wire may be permitted on “security fences” but must be at least 8 ft. from grade.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38 and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Mobile Vendors. Applications will be submitted to the Board of Adjustment. The following items must be considered: parking, permission of adjacent land owner, not on City property, accessibility to utilities, lot size, required side and front yards, maximum height of structure, permitted signs, exterior storage, traffic control, such not to impair an adequate supply of light and air to surrounding property, not to unduly increase congestion in the streets or public danger of fire and safety, not to diminish or impair established surrounding property values, shall be in accord with the intent, purpose, and spirit of this chapter and the land use policies of the City, that the best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed, required State permits, and size of mobile unit.
2. Communication towers up to eighty (80) feet in height and flag poles up to one hundred (100) feet in height provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height and that the height and location shall not interfere with the operation of any airport or landing strip.
3. Trailer camp and/or tourist campground as provided in Section 165.48.

(Ord. 377 – Dec. 14 Supp.)

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT & SIDE YARDS | MAXIMUM HEIGHT |
|--|---|----------------|
| Commercial Uses: 50 ft. Wide 50 ft. Deep | Front:..... 10 feet Street side, corner lot6 feet No side or rear yard required except where apartments are above a store or shop, a rear yard of 10 feet shall be provided and where adjacent to an “A” or “R” District, a side yard of 10 feet and a rear yard of 10 ft. shall be provided. | 35 feet |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than trade, business or industry identification sign for the firm located on the site.
2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planting, the design or type of which shall be approved by the Board of Adjustment, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product which may cause dust

or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the site.

3. Refer to Section 165.11(1)
4. No outside storage shall be permitted for rental storage facilities.

**GENERAL OFFICE AND RETAIL
C-2**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|--|---|
| 1. Dry cleaners or laundry | No off-street parking required in this district unless otherwise stated within specific line items for principal and special exception uses and structures. |
| 2. Clubs and lodges | |
| 3. Retail businesses | |
| 4. Personal service and repair shops (does not include auto, farm implement or truck repair) | |
| 5. Business and professional offices and studios | |
| 6. Medical, dental, chiropractic clinics | |
| 7. Restaurants, night club, café or tavern | |
| 8. Public buildings and utilities but not including storage or maintenance yards or buildings | |
| 9. Hotels, motels and bed and breakfast/bath home. Off-street parking requirement: one (1) parking space for each rental unit. | |
| 10. Printing, publishing and engraving | |
| 11. Dance or music schools | |
| 12. Commercial amusements | |
| 13. Wholesale display and salesroom | |
| 14. Community meeting or recreation building | |
| 15. Dwelling unit above a store or shop. Off-street parking requirement: one (1) parking space for each dwelling unit. | |
| 16. State licensed gambling facilities | |
| 17. Banks | |
| 18. Food preparation, including catering | |
| 19. Candy making | |
| 20. Bakeries | |
| 21. Wineries | |
| 22. Brew Pubs | |
| 23. Quilt making | |
| 24. Production of items from natural materials (such as wood, shells, cloth, string, plant material and leather) | |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, including public and private parking lots and garages other than parking lots and garages located below dwelling units.
2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. Fuel tanks for heating.
4. Fences, except barbed wire, electric, or other potentially hazardous types. In side or rear yards, “security fences” may be permitted. Barbed wire may be permitted on “security fences,” but must be at least 8 ft. from grade.

(Ord. 427 – Mar. 23 Supp.)

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38 and the other requirements contained herein, the Board of Adjustment may permit the following:

1. No outside storage shall be permitted, except as specified in special requirements.
2. Private residences in existence at the effective date of adoption of the Zoning Ordinance. A special exception use permit shall be required to expand or enlarge such a residence or to rebuild or replace in the event of destruction to the extent of more than fifty percent of its replacement cost.
3. Satellite dishes.
4. Mobile Vendors. Applications will be submitted to the Board of Adjustment. The following items must be considered: parking, permission of adjacent land owner, not on City property, accessibility to utilities, lot size, required side and front yards, maximum height of structure, permitted signs, exterior storage, traffic control, such not to impair an adequate supply of light and air to surrounding property, not to unduly increase congestion in the streets or public danger of fire and safety, not to diminish or impair established surrounding property values, shall be in accord with the intent, purpose, and spirit of this chapter and the land use policies of the City, that the best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed, required State permits, and size of mobile unit.
5. Structures exceeding 35 feet in height but not exceeding 50 feet in height.
6. Communication towers up to eighty (80) feet in height and flag poles up to one hundred (100) feet in height provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height and that the height and location shall not interfere with the operation of any airport or landing strip.

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT & SIDE YARDS | MAXIMUM HEIGHT |
|-------------------------------|---|-------------------|
| 1,875 sq. ft | None except where adjacent to an "R" district, a front, side or rear yard of 10 feet. | 35 feet |

PERMITTED SIGNS

Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on site. (See "Permitted Signs".)
2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planting, the design or type of which shall be approved by the Board of Adjustment, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be

stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the site.

3. Any projecting balcony constructed into the public right-of-way in the C-2 District must have at least a 10-foot clearance from the sidewalk to the bottom of the balcony and be cantilevered from the wall. No support post resting on the right-of-way will be permitted.
4. If an entire structure is devoted to a nonresidential use, no part of it shall be converted to residential use except for dwelling units above stores or shops.

**INDUSTRIAL
M-1**

| PRINCIPAL USES AND STRUCTURES | MINIMUM OFF-STREET PARKING |
|---|--|
| 1. Manufacturing and processing uses | 1 space for each employee plus 1 space for each vehicle used by the company plus 1 space for every 200 square foot of sales, service, or office space. |
| 2. Animal hospital or kennel | |
| 3. Wholesaling and warehousing not including the bulk storage of liquid fertilizer or petroleum products under pressure | |
| 4. Farm implement display, sales, service and repair | |
| 5. Lumber yard and building material sale and storage | |
| 6. Truck and freight terminal | |
| 7. Truck display, sales, repair and storage | |
| 8. Grain storage bins | |
| 9. Grain elevator and feed mill | |
| 10. Welding and repair shop | |
| 11. Tool, die, gauge and machine shops | |
| 12. Public utilities including storage and maintenance yards | |
| 13. Automobile paint and body shops | |
| 14. Plumbing, heating, air conditioning and sheet metal shops | |
| 15. Processing and handling of cheese, butter and other milk products | |
| 16. Lab and Research establishments | |
| 17. Rental storage facilities | |
| 18. Recycling drop boxes | |
| 19. Recycling Plant/Community Recycling Center | |
| 20. General administrative offices | |
| 21. Satellite Dishes | |
| All uses shall provide at least one (1) loading space for each 10,000 sq. ft. of floor area. | |

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.
3. Dwelling units for owner operators or watchmen/caretaker employed on the premises provided that an open yard of at least 2,400 sq. ft. is reserved and maintained by the occupants.
4. Fences, except barbed wire, electric, or other potentially hazardous types. In side or rear yards “security fences” may be permitted. Barbed wire may be permitted on “security fences” but must be at least 8 ft. from grade.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.38 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Stockyards, rendering works, loading pens, buying stations and/or sale barns and yards, commercial feedlots, and commercial poultry raising, provided that it is not closer than one-fourth mile to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assemblies, that the provisions of drainage, sanitation, waste disposal, and fly control are approved by the Local Health Officer, that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; and that one (1) parking space for each vehicle used by the industry be provided.
2. Auto wrecking and junkyards provided that the front yard be maintained as an open space free of weeds and debris; that the site be enclosed with at least a six (6) ft. high fence or a suitable landscape planting that will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreation areas and residential properties; and that a minimum of one (1) space for each vehicle used by the facility be provided.
3. Concrete products manufacture and central mixing and proportioning plant; fertilizer manufacture or blending; iron and steel fabrication; provided that such use is located not closer than 500 ft. to any existing dwelling unit or any park, school, church or place of public assembly; that it is located so that prevailing winds will not cause dust, smoke or odors to create a nuisance for developed properties in the vicinity; that one (1) parking space for each employee and one (1) space for each vehicle used by the industry be provided and at least one (1) loading space shall be provided for each 10,000sq. ft. of floor area.
4. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking space per employee and one (1) space for each vehicle used by the facility be provided.
5. Mobile Vendors. Applications will be submitted to the Board of Adjustment. The following items must be considered: parking, permission of adjacent land owner, not on City property, accessibility to utilities, lot size, required side and front yards, maximum height of structure, permitted signs, exterior storage, traffic control, such not to impair an adequate supply of light and air to surrounding property, not to unduly increase congestion in the streets or public danger of fire and safety, not to diminish or impair established surrounding property values, shall be in accord with the intent, purpose and spirit of this chapter and the land use policies of the City, that best practical means known for the disposal of refuse matter or water-carried waste the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed, required State permits and size of mobile unit.

| MINIMUM LOT AREA AND WIDTH | MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS | MAXIMUM HEIGHT |
|-----------------------------------|--|-----------------------|
| None | Front:..... 10 feet Rear:..... 10 feet Side: 6 feet Where adjacent to an “R” district. A side yard of 10 feet shall be provided | None |

PERMITTED SIGNS

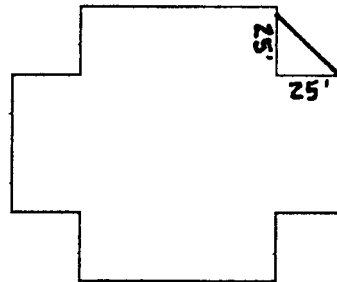
Refer to Chapter 155 of this Code of Ordinances.

SPECIAL REQUIREMENTS

1. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building, nor shall any junk, debris or waste material be permitted to accumulate on the site, except as provided in special exceptions.
2. No outside storage shall be permitted for rental storage facilities.

165.11 SUPPLEMENTARY DISTRICT REGULATIONS. Notwithstanding Section 165.10, the following provisions, regulations or exceptions shall apply equally to all districts except as hereinafter provided.

1. Visibility at Intersection. On a corner lot in any district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two feet and ten feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five feet distant from the intersecting of the right-of-way lines, and measured along the right-of way lines.



2. Accessory Buildings. No accessory building/structure shall be erected in any required front yard and no separate accessory buildings shall be erected within five feet of any main building or within five feet of a lot line.

3. More Than One Principal Structure on a Lot. In any district, more than one principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this chapter are met for each structure as though it were on an individual lot.

4. Height Regulation Exception. The height limitations contained in the schedules of district regulations do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, chimneys, antennas, water tanks, ventilators, elevator housings or other structures placed above the roof level and not intended for human occupancy.

5. Use of Public Right-of Way. No portion of the public road, street or alley rights-of-way shall be used or occupied by any abutting use of land or structures for storage or display purposes or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

6. Proposed Use Not Covered in Ordinance. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the Zoning Ordinance amended as provided in Section 165.43 before a permit is issued for such proposed use.
7. Buildings to Have Access. Every building hereafter erected or structurally altered shall be on a lot or parcel having a frontage on a public street or road.
8. Mobile Homes or Trailers. Mobile homes occupied as a permanent or temporary place of residence shall be located only in an R-4 district. But nothing in this chapter shall prohibit the storage or parking of privately owned motor homes or camper trailers on private property at the owners' residence.
9. Agricultural Uses. Any vacant parcel of land regardless of size in any district may be used for agricultural purposes, the raising of feed and grain crops, fruit or vegetables, provided that no livestock, poultry or other animals other than customary household pets shall be kept on land or in confinement within three hundred feet of any dwelling unit other than that of the owner.
10. Zoning Lot. If two or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered an undivided parcel and no portion of said parcel shall be sold which does not meet lot width and area requirements of the district, nor shall any division be made which leaves remaining any lot width or area below the requirement of the district.
11. All provisions contained in the definitions set forth in Section 165.03 of this chapter which are regulatory in nature are substantive and enforceable regulations under this chapter.
12. All fences must be setback a minimum of three (3) feet from any permanent structure located on an adjacent lot. (*Ord. 367 – Dec. 13 Supp.*)

165.12 APPLICATION OF DISTRICT REGULATIONS. The regulations and restrictions of this chapter shall apply as follows:

1. Regulations To Be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses and Structures to Conform. No building, structure or land or part thereof shall be used, erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

(Ord. 373 – Dec. 13 Supp.)

3. Height, Density or Yards Shall Not Be Violated. No building or other structure shall be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces that herein required or in any other manner contrary to the provisions of this chapter.

4. Separate Yards, Open Space and Off-Street Parking Required. No part of a yard, other than open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

5. Minimum Yards and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by this chapter.

6. New Areas. All territory which may become a part of the incorporated area of the City through annexation shall be classified in the A-1 Limited Agricultural District until otherwise classified, provided that the Commission may recommend the appropriate district classification prior to such territory becoming a part of the City and upon holding of a public hearing and approval by the Council the territory upon becoming part of the community may immediately be so classified.

165.13 NONCONFORMITIES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this ordinance was passed

or amended but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment thereto.

165.14 NONCONFORMITIES MAY CONTINUE. Notwithstanding Section 165.10, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Nothing in this chapter shall be construed to restrict or prohibit the sale of a nonconforming use or land containing nonconforming uses or structures. However, no purchaser may claim unnecessary hardship as a basis for a variance.

165.15 NONCONFORMITIES MAY NOT BE ENLARGED. A nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after the date of adoption or amendment of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

165.16 NONCONFORMING AT ADOPTION. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

165.17 NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

165.18 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued for as long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.19 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall

find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with the provisions of this chapter.

4. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

5. (Repealed by Ordinance No. 387 – Sep. 17 Supp.)

6. Where nonconforming use status applies to a structure and premises in combination, removal of destruction or the structure shall eliminate the nonconforming status of the land.

165.20 REPAIRS AND MAINTENANCE. Nothing in this chapter shall prohibit the maintenance and repair of nonconforming structures to keep such a structure in sound and safe condition, provided that no structural enlargement, extension, alteration or change shall be made to increase the degree of nonconformity. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

165.21 USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

165.22 ADMINISTRATION AND ENFORCEMENT. An administrative officer designated by the Council shall administer and enforce this chapter. The person may be provided with the assistance of such other persons as the Council may direct. If the administrative officer shall find that any of the provisions of this chapter are being violated, said officer shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The administrative officer shall order discontinuance of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.23 APPEALS FROM DECISION OF ADMINISTRATIVE OFFICER. Appeals from any decision of the administrative officer may be made to the Board of Adjustment as provided in section 165.34.

165.24 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

165.25 VIOLATION AND PENALTIES. Any person who violates or fails to comply with the provisions of this chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day such violation continues shall constitute a separate offense.

165.26 SEPARATE OFFENSES MAY BE CHARGED. The owners or tenant of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

165.27 OTHER REMEDIES. Nothing herein contained shall prevent the Council or its agents from taking other lawful action as is necessary to prevent or remedy any violation.

165.28 BUILDING PERMIT. Subsequent to the adoption of the Zoning Ordinance, a building permit shall be obtained from the administrative officer before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height or floor areas, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The building permit shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modification shall be made to plans or to actual construction that would be in violation of this chapter. Any maintenance item such as a new roof, window, siding, doors, and other repair items, which do not enlarge the structure, shall not require a building permit.

A building permit shall not be issued unless the application and the investigation thereof indicate compliance by the applicant with all of the provisions of this chapter and all other applicable laws of the City and state,

including those pertaining to the protection of burial mounds and other burial sites. *(Ord. 307 – Oct. 04 Supp.)*

165.29 APPLICATION FOR BUILDING PERMIT. Applications for a building permit shall be made prior to beginning construction on fully completed application forms obtained from the administrative officer, and accompanied by such plans and information necessary to determine that the proposed construction complies with all applicable provisions of this chapter. The signature of the applicant on the application shall certify that the new occupancy complies with all provisions of this chapter, and no subsequent modifications shall be made to the occupancy, use, method or operation that would be in violation of this chapter.

165.30 FEES. A fee shall accompany the application. The fee shall be based on the valuation of the proposed construction, reconstruction, alteration or repair. The fee shall be as follows:

| Valuation | Fee |
|--------------------|-------|
| \$0-\$500 | \$0 |
| \$501-\$10,000 | \$25 |
| \$10,001-\$30,000 | \$40 |
| \$30,000-\$60,000 | \$60 |
| \$60,001-\$100,000 | \$80 |
| \$100,000+ | \$100 |

There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof. All fees as are required shall be paid to the administrative officer, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the General Fund of the City.

(Section 165.30 – Ord. 421 – Mar. 23 Supp.)

165.30A PERMIT EXPIRATION. Any building permit, under which no construction work has been commenced within six (6) months after the date of issue of said permit or under which the proposed construction, reconstruction or alteration has not been completed within two (2) years of the date of issue, shall expire by limitation; and no work or operation shall take place under such permit after such expiration. A building permit may be extended once for a period not exceeding six (6) months by the Administrator. If construction is not substantially completed prior to building permit expiration, the property shall be returned to its condition prior to the commencement of construction. A building is substantially completed when it is fully functional for all intended purposes, the exterior is complete and, all interior floors, walls, ceilings, and plumbing, heating and electrical systems are in place. *(Ord. 373 – Dec. 13 Supp.)*

165.30B CERTIFICATE OF COMPLIANCE.

1. No structure, lot or other premises for which a building permit has been issued shall be occupied or used after the expiration of the building permit unless a certificate of compliance shall have been issued by the Administrative Officer. Such certificate shall show that the structure or premises or part thereof and the use thereof are in compliance with the relevant provisions of this chapter and in compliance with all permits issued therefor. Such certificate shall be deemed applied for when application is made for a building permit.
2. Upon written request from the owner or tenant, the Administrative Officer shall also issue a certificate of compliance for any existing structure, premises or use certifying, after inspection, the extent and kind of use made of the structure or premises and whether or not such structure or use conforms to the provisions of this chapter, including provisions relating to non-conforming structures and uses existing on the effective date of this chapter.
3. No additional fee shall be required for the issuance of the certificate of compliance required under the provisions of subsection 1 of this section. A fee of \$25 shall be required for certificates of compliance issued under subsection 2 of this section.

(Ord. 373 – Dec. 13 Supp.)

165.31 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established. The board shall consist of five (5) members to be appointed by the Council for staggered terms of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member. The board shall not carry out any business without a majority (3 members) present. A majority of the members of the board shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate.

165.32 ELECTION OF CHAIRPERSON. The Board shall annually elect its own Chairperson at the first meeting on or after January 1 of each year. Such Chairperson, or in the absence of the Chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of three (3) members shall be necessary to constitute a quorum. The concurring vote of three (3) members shall be necessary on all matters upon which it is required to pass under the provisions of this chapter.

165.33 PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or in the absence of the Chairperson, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Clerk. The City shall provide a clerk for clerical assistance.

165.34 HEARINGS, APPEALS AND NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by a decision of the administrative officer. Such appeals shall be taken within a reasonable time not to exceed thirty (30) days by filing with the administrative officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

165.35 NOTICE. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

165.36 APPEAL FEE. A fee of fifty dollars (\$50.00) shall be paid to the administrative officer at the time the notice of appeal is filed, which the administrative officer shall forthwith pay over to the credit of the General Fund of the City.

165.37 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer from whom the appeal is taken certifies to the board after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would, in the opinion of the administrative officer, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the administrative officer from whom the appeal is taken and on due cause shown.

165.38 BOARD OF ADJUSTMENT – POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties.

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.

2. Special Exceptions. Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the board unless and until:

A. A written application for a special exception has been submitted indicating:

(1) The section of this chapter under which the special exception is sought and the grounds upon which it is requested; and

(2) The names and addresses of the property owners adjacent to the lot for which the special exception is requested indicating their approval or objection; and

B. The applicant has paid a non-refundable \$50.00 application fee; and

C. Notice shall have been given at least four (4) days in advance of the public hearing on said application for the special exception by publication in a newspaper of general circulation in the City, and a notice on a public bulletin board; and

D. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or attorney, and

E. The board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and the board shall have determined that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the board may prescribe appropriate conditions and safeguards in

conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter. The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

3. Variances; Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board unless and until:

A. A written application for a variance shall have been submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district; and

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter; and

(3) That the special conditions and circumstances do not result from the action or actions of the applicant and were not in existence when the applicant acquired the property; and

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and

(5) The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or objection; and

B. A non-refundable \$50.00 variance application fee shall be paid; and

C. Notice of public hearing shall have been given as in Paragraph (2)(C) of this section; and

D. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or by attorney; and

E. The board shall have made findings that the requirements of Paragraph (3)(A) of this section have been met by the applicant for a variance; and

F. The board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and

G. The board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

165.39 CONDITIONS OF VARIANCE. In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.25. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.39A COUNCIL REVIEW OF VARIANCE GRANTS. No grant of a variance by the Board shall be effective until after review of the variance grant by the Council. The Zoning Administrator shall forward all variance applications which have been approved by the Board to the Council for review at its next meeting following such approval. The Council shall, at such meeting, by motion, either approve the variance grant or remand the matter to the Board for further study. If remanded to the Board by the Council, the Board shall reconsider its decision and may either confirm its prior decision or deny the variance grant. If a variance grant is remanded to the Board for further consideration and the Board confirms its initial decision to approve the variance, the variance grant shall become effective thirty (30) days after the Council's decision to remand. *(Ord. 373 – Dec. 13 Supp.)*

165.40 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising its powers, the Board of Adjustment may, in conformity with the provisions of

this chapter and Iowa Code Chapter 414, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to have been made, and to that end shall have all the powers of the administrative officer.

165.41 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, any taxpayer, department, board, or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review of such decision of the board by a court of record in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

165.42 CHANGES AND AMENDMENTS. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendment shall be made without public hearing before said Council and without a report made upon the amendment by the Commission. At least seven (7) days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City, however in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. In case the Commission does not approve the change, or in the case of a written protest against the change which is filed with the Clerk and signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change, or by the owners of twenty percent (20%) or more of the property which is located within 200 feet of the exterior boundaries of the property for which the change is proposed, the change shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing.

165.43 STYLE OF AMENDMENT. Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the Zoning Ordinance, shall refer to the official zoning map, and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the Clerk as other ordinances and the official zoning map changed as provided in Section 165.08. Such amendatory ordinance, however, shall not repeal or reenact said map, but only amend it. The official zoning map as amended, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

165.44 APPLICATION FOR CHANGE OF ZONING DISTRICT BOUNDARIES. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map.

1. Such application shall be filed with the administrative officer accompanied by a fee of eighty dollars (\$80.00) and shall contain the following information:

- A. The legal description and local address of the property, and
- B. The present zoning classification and the zoning classification requested for the property, and
- C. The existing use and proposed use of the property, and
- D. The names and addresses of the owners of all property within two hundred (200) feet of the exterior boundaries of the property for which the change is requested, and
- E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid, and
- F. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred (200) feet of the exterior boundaries thereof, including streets, alleys, railroads and other physical features.

2. Upon receipt of the application by the administrative officer a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:

- A. Whether or not the current district classification of the property to be rezoned is valid, and
- B. Whether there is a need for additional land zoned for the purpose requested, and
- C. Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - (1) Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the areas, and
 - (2) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity, and

D. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

3. The Commission shall report its determinations and recommendations to the Council within thirty (30) days from receipt of the application, and the Council shall then call a public hearing as provided in Section 165.42.

165.45 SOLAR ACCESS EASEMENTS. The Board of Adjustment is hereby designated the solar access regulatory board for the City, to receive and act upon applications for solar access easements in conformity with the provisions of Chapter 564A of the *Code of Iowa*. Where any provisions of Chapter 564A of the *Code of Iowa* conflict with any provisions contained elsewhere in this chapter, the provisions of Chapter 564A of the *Code of Iowa* shall control.

165.46 ZERO LOT LINE DEVELOPMENT.

1. Definition. A zero lot line development is a special exception use and structure which the Zoning Board of Adjustment is authorized to approve in the R-1, R-2 and R-3 residential zoning districts. It consists of a duplex constructed on a single lot or a group of contiguous lots under common ownership with the ownership of the lot or group of contiguous lots divided along the axis of the common wall of the two duplex units following construction. This housing development style is intended to provide an opportunity for lower-cost single family housing ownership.

2. Requirements. The Zoning Board of Adjustment shall not approve a special exception permit for a zero lot line development unless the following requirements are satisfied:

A. Prior to the commencement of construction the developer shall apply for a special exception permit for zero lot line development and secure the necessary approval from the Zoning Board of Adjustment. In such cases the building permit application and the special exception permit application shall set forth sufficient details to show compliance with the requirements of this section.

B. The minimum lot area for each housing unit following division shall be 5,000 square feet.

C. Minimum lot frontage for each housing unit shall be 50 feet or 80 feet in the case of corner lots.

- D. Maximum height of each housing unit shall be 35 feet or 2½ stories.
 - E. The front yard setback requirement shall be the same as the zoning district in which the unit is located.
 - F. The side yard setback for the side where the two duplex units adjoin shall, following division, be zero feet.
 - G. The two duplex units shall share a common wall and roof.
 - H. The side yard setback for the side of the lot opposite the zero setback side shall be a minimum of 12 feet.
 - I. No more than one duplex structure shall be constructed on the same lot or group of contiguous lots for purposes of zero lot line development.
 - J. No more than five zero lot line development structures may be constructed within every 400 feet of continuous block length.
 - K. Zero lot line developments shall be constructed parallel to a public street so that the lot for each housing unit has frontage on the street and no housing unit is located to the rear of another housing unit.
 - L. Each unit shall have a separate water meter and separate water and wastewater service lines which shall not traverse any other lot.
 - M. Where common gas or electric lines are provided for a zero lot line development, easements approved by the service provider shall be provided.
 - N. Restrictive covenants or other deed restrictions setting forth maintenance responsibilities for both unit owners with respect to the shared wall and roof, in a legally enforceable form and approved by the Zoning Board of Adjustment shall be recorded with the Clayton County Recorder before either unit in a zero lot line development is sold. The developer shall be responsible for recording the approved restrictive covenant or other deed restriction and shall furnish evidence of such recording to the Zoning Administrator.
3. Additional Conditions. The Zoning Board of Adjustment may attach additional conditions to any zero lot line development as a condition of approval of the special exception permit. The Board of Adjustment shall not have authority to remove or waive any of the requirements for zero lot line development set forth in this section.

(Ord. 346 – Dec. 10 Supp.)

165.47 BLUFF LAND CONSERVATION ZONING OVERLAY DISTRICT.

1. Intent. It is the intent of the Bluff Land Conservation Zoning Overlay District (hereafter referred to as the “Bluff Land Overlay District”) to encourage and promote development, whenever feasible and in every practical manner, provided that the aesthetic beauty of the bluffs are preserved. The Bluff Land Overlay District is also intended to ensure a anonymous relationship between urban development and the existing natural environment by excluding land uses and development patterns that adversely impact the viewshed of those areas.

2. Purpose. The purpose of the Bluff Land Overlay District is to provide additional criteria to:

A. Maintain scenic views of environmentally significant areas;

B. Preserve the scenic natural features and qualities of the bluff for residents and visitors;

C. Promote smart growth by allowing development to occur in a practical manner;

D. Protect the environment and structures from the process of erosion;

E. Protect property values; and

F. Implement the natural environment goals of the comprehensive plan, as amended.

3. Boundaries. The Bluff Land Overlay District is comprised of all those areas shown and designated as “Horizon Belts” on eight maps entitled “City of Marquette, Iowa, Bluff Land Conservation Zoning Overlay District” identified by the signature of the Mayor and attested to by the Clerk under the following statement:

This is to certify that this is one of eight Bluff Land Conservation Zoning Overlay District maps referred to in Section 165.47 of the Zoning Ordinance of Marquette, Iowa, as adopted the 13th day of December, 2011. Said maps, with the explanatory material thereon, are hereby adopted by reference and declared to be part of this section.

4. Nature of the District. The Bluff Land Overlay District is deemed an “overlay zoning” district. As such, all properties within the district shall be subject to both the provisions of this section and to all regulations applicable to the underlying zoning districts. The term “underlying zoning districts” shall mean those zoning districts shown on

the Official Zoning Map described in Section 165.06 of this chapter and such other overlay districts as have been or may be created.

5. Method for Defining Horizon Belts. A geographic information system (GIS) model was used to identify potential impacts on the horizon line among ridges and bluffs in the City. To this end, points of interest in the City were delineated and used to create a composite of points that can be seen more prominently. This chapter provides for maximum building heights of either 20 feet or 35 feet. Consequently, these height restrictions were incorporated into the GIS model to establish where a building of these respective heights would break the view horizon line.

6. Definitions. For the purpose of this section, certain terms and words are hereby defined:

A. Bluff. A topographical feature, such as a hill, cliff, or embankment with an average slope of forty-five (45) percent or greater with a vertical rise or drop of fifty (50) feet or greater.

B. Horizon Belt. A horizontal and vertical reference line designated along bluffs and ridges that compare the relative visibility of undeveloped land and the comparative heights of buildings.

C. Scenic View. An outstanding or unique view of a bluff or hillside as seen from a delineated viewing or generalized viewing place.

D. View Corridor. A space between a viewing place and a scenic view defined by a view plane and view framing lines.

E. Viewing Place and/or Viewpoint. A public street or other public area or facility from which a scenic view may be observed.

7. Development Restrictions and Procedures.

A. Site Plan Requirement. Except as otherwise provided in this Section, it shall be unlawful to construct, erect, alter or place any building or structure, to excavate, fill or grade any land, or clear cut trees or cut two or more trees greater than 24 inches in diameter (measured at a height of four feet from the ground surface) within the Bluff Land Overlay District unless such activity is pursuant to and in conformity with a plan of improvements (a "site plan") which has been reviewed by the Zoning Commission and approved by the City Council in accordance with this section. An accessory structure of less than 150 square feet in area and 12 feet or less in height shall not

require site plan approval unless the structure would also require clear cutting of trees, or cutting of two or more trees greater than 24 inches in diameter.

B. Site Plan Approval Application. The site plan review and approval procedures shall be as follows:

(1) The property owner or applicant shall complete and file with the Zoning Administrator a site plan approval application on a form provided by the City, accompanied by a site plan prepared in conformity with the requirements of subsection 7(C) and a non-refundable application fee in the amount of \$25.00.

(2) Upon receipt of the site plan the Zoning Administrator shall review it to determine compliance with subsection 7(C). If not in compliance, the Zoning Administrator shall inform the property owner or applicant in writing that the application is rejected for stated reasons.

(3) The site plan shall be forwarded to the Zoning Commission for review and recommendation. The Commission shall recommend to the City Council approval without conditions, approval with conditions or denial. All recommendations for conditional approval shall set forth the conditions required to be met and all denials shall set forth the reasons for such determination.

(4) The site plan shall be referred to the City Council at the next regular meeting following action by the Zoning Commission. At the first meeting after receiving the Zoning Commission's recommendation, the City Council shall do one of the following:

- a. Approve the site plan.
- b. Approve the site plan subject to conditions, setting forth the conditions that must be satisfied.
- c. Deny the application for approval, for reasons stated.
- d. Table action on the application until the next regular council meeting in order to seek additional information, including review and comment by an engineer, architect, arborist or other professional as deemed necessary to properly evaluate the site plan.

(5) In cases where the construction of a new building or building addition is being proposed, a building permit shall not be issued for the development project by the Zoning Administrator until approval for the site plan has been received from the City Council. In the event the project is one which does not require a building permit (e.g., removal of two or more trees that are 24 inches or greater in diameter), the property owner or applicant will be required to receive an Approved Site Plan bearing the signature of the Zoning Administrator following City Council approval. The Zoning Administrator shall ascertain that all conditions imposed which may be satisfied prior to commencement of the project have been fulfilled before issuing the permit or other written authorization.

(6) The City shall either approve or deny an application for site plan approval within seventy (70) days of the date on which an application, a compliant site plan, and the application fee for a project are received by the City.

C. Site Plan Requirements.

(1) Minimum Requirements. In addition to the requirements in subsection 7(D) of this section, all site plans submitted for development activities within the Bluff Land Overlay District must include:

- a. Identification of existing trees, shrubs and ground cover. This will include identification of the location of all existing trees and other plant materials that are to be preserved. In addition, those trees and plant materials that are to be removed must be noted individually or by stands of trees. The plans shall also set forth a description of the methods to be used to protect vegetation to be retained during construction activities.
- b. Proposed location of new trees, shrubs, native grasses and ground cover.
- c. Natural features such as outcroppings.
- d. Other landscape elements.
- e. A construction limits line that defines the buildings, parking locations, and other vehicular areas, and all areas required for cut and fill.

Outside this limit line, no tree survey shall be required, and the project developer shall be required to leave undisturbed all areas of native vegetation.

f. A topographic survey conducted by a professional engineer licensed in the State of Iowa with contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than five (5) percent, and at vertical intervals of not more than ten (10) feet if the general slope is ten (10) percent or greater.

g. Notation of all "Conservation Easements."

h. Drawings prepared by a licensed design professional (e.g., civil engineer, architect, or landscape architect) that show proposed structures and improvements, height and size of proposed structures, exterior wall elevations, roof lines, façade materials of proposed buildings and structures.

i. Timetable for site development/construction.

j. Location and design of any private water system, sewage, or other sanitary waste disposal system.

(2) Potential Additional Requirements. The City Council can require the submission of additional information to allow adequate review of a site plan in accordance with the standards set forth in subsection 7(C) of this section. The requirements listed in this subsection are optional and only subject to the City Council's request and approval. Any or all of the following may be required:

a. A physical demonstration of the potential visual impact of the proposed activity or structure by use of such measures as a balloon, platform or colorful markers, of such size and color as to be readily visible from a public road, and at an elevation to be prescribed by the City Council on the basis of the specific nature of the proposed development activity. This requirement is optional and can only be required by the City Council.

b. Field marking by a licensed surveyor or other qualified professional of points deemed relevant by the City Council. This requirement is optional and can only be required by the City Council.

c. Such other information as the City Council may reasonably determine to be helpful in determining if the proposed development activity complies with the standards set forth in subsection 7(C) of this section. This requirement is optional and can only be required by the City Council.

D. Site Plan Standards.

(1) No site plan shall be approved for any activity described in subsection 7(A) of this section unless the City Council finds that the site plan complies with the applicable provisions of this section. In addition, the referenced standards cited below are applicable to proposed development projects within the Bluff Land Overlay District.

(2) The Horizon Belts as referenced in subsection 5 of this section shall be used to evaluate the potential impact of proposed development projects based on the percentage of area visible from various viewpoints. For those horizon belts visible from 75 percent or greater of the viewpoints, development is strongly discouraged. Proposed development projects that are 50 to 75 percent visible from the viewpoints will be discouraged; however, the use of land conservation design measures such as cluster development, use of large lots, etc., can be proposed to mitigate adverse impacts to the view shed. Proposed development projects within horizon belts that are 25 to 50 percent visible from the viewpoints are allowable; however, the development must take appropriate measures to mitigate negative impacts on the viewshed. This may be accomplished by encouraging cluster development, and preserving or planting plant life that screens buildings and related facilities from public views.

(3) Soil Excavation.

a. Whenever soil on a building site is excavated and disturbed, all remaining vertical areas and/or

slopes meeting the definition of sloped areas that are greater than 10% or more after excavation shall be protected by retaining walls designed to protect the hillside from erosion and falloff.

b. In addition to retaining wall structures, all excavation on building sites and subdivisions shall be required to construct all appropriate siltation structures and/or basin terraces. If these structures are not required, then the owner of the lot or subdivision shall be required to submit a certified statement from a civil engineer registered in the State of Iowa to that effect.

c. All roadway design and construction shall follow the appropriate land contours. Subdivisions and building sites shall design roads in a manner that minimizes erosion. Standard practices for erosion and siltation control shall be followed throughout the project site.

(4) Water Runoff. The final design of a building site shall include necessary steps to disperse all rainwater in order to minimize erosion on the site and the added affect to adjacent or surrounding properties.

(5) Subject to the provisions of this Section, land within the Bluff Land Overlay District may be developed and structures erected, altered or enlarged for any use that is allowed in the underlying zoning district and in accordance with the site development standards of the underlying zoning district and all other applicable requirements of the municipal code.

(6) All development plans must incorporate the natural and aesthetic aspects of the site.

(7) Developments shall be of a design which acts to preserve scenic vistas and viewpoints and to minimize any detrimental impact to hillsides and open space.

(8) The applicant must demonstrate that efforts were made to minimize the visual impact of the proposed structure and/or clear cutting on the horizon and to minimize the use, disturbance and grading of steep slopes, as well as potential erosion and sedimentation. Such

efforts must be demonstrated in terms of the placement of the structure and/or the location of the clear cutting on the lot(s), the use of colors, shapes and other architectural features, and the preservation or emplacement planting of vegetative screening to enable the structure to blend in with the natural features of the horizon to the extent practical. The applicant must demonstrate particular care to avoid the removal of trees along or near the crest of the hill, summit or ridge so as to cause an interruption of the tree line along the horizon when the hill, summit or ridge is viewed from a public road or public venue as represented as viewpoints along designated horizon belts.

(9) Except as provided for in subsection 7(D)(11), no site plan shall be approved in which an existing structure that is fully or partly obscured for view from the public roads would be rendered substantially more visible along the horizon as a result of additional construction or expansion of the structure, the removal of vegetation, or any movement of earth materials.

(10) Except as provided for in subsection 7(D)(11), no site plan shall be approved in which clear cutting occurs in a contiguous area having any dimension, measured within the Bluff Land Overlay District, longer than 200 feet.

(11) If the City Council finds that the provisions of subsections 7(D)(9) and 7(D)(10) would prohibit the reasonable development of any lot(s), it may approve a site plan for such development, provided that reasonable efforts have been made to minimize the impact on the natural and scenic character of the horizon and to prevent erosion, sedimentation and storm water damage.

8. Applicability Outside of the District. Unless otherwise specified in the Zoning Ordinance or other municipal policy or regulation governing the development of land within the jurisdictional boundary of the City of Marquette, Iowa, no site plan shall be required pursuant to this section for any activity occurring outside the Bluff Land Overlay District, regardless of whether other portions of the same lot are located within the District. The Zoning Administrator shall make the initial determination, based on available information, of whether a proposed activity would occur within any portion of the Bluff Land Overlay

District. If the property owner or applicant disagrees with such determination, he or she may do any of the following:

- A. Provide additional information, such as a survey or engineer's map, to the Zoning Administrator to assist in establishing the location of the district boundary in relation to the proposed activity;
- B. Request the issue be referred to the Zoning Board of Adjustment for determination; or
- C. Proceed in accordance with subsection 7.

9. Appeals and Variances. The provisions of Section 165.38 of the Zoning Ordinance concerning appeals and applications to the Zoning Board of Adjustment for review of decisions by the Zoning Administrator and variances shall be applicable to this section.

(Section 165.47 Added by Ord. 357 – Dec. 12 Supp.)

165.48 TRAILER CAMPS AND/OR TOURIST CAMPGROUNDS.

1. Purpose. The purpose and intent of this chapter is to protect and promote the public health, safety, and general welfare by allowing development of trailer camps and/or tourist campgrounds upon conditions that such uses will have no harmful effect on, and will be developed compatible with, adjoining lands; and will have open areas that are natural in character.

2. Trailer Camp and/or Tourist Campground Requirements.

A. Permitted Uses and Structures. A special exception granted for a trailer camp and/or tourist campground may authorize only the following uses and structures:

(1) Camp sites established or maintained for occupancy by motor homes, travel trailers, camping trailers and/or tents as temporary living quarters for recreation or vacation purposes by campers, vacationers or travelers.

(2) Buildings and structures necessary for the operation and maintenance of the trailer camp and/or tourist campground, or providing customary accessory uses including bathrooms, shower facilities, laundry facilities, office and equipment storage buildings, storm shelters, and the permanent residence of the owner or manager of the trailer camp and/or tourist campground. No permanent structures shall be allowed on the camp sites.

(3) Community recreation facilities, for residents of the park and their guests, including swimming pools.

(4) Community events for residents or the general public.

B. Development Standards. The Board of Adjustment shall not approve a special exception for the trailer camp and/or tourist campground unless the applicant submits a site plan conforming to the following requirements:

(1) Minimum trailer camp and/or tourist campground size. The minimum area for such a use shall be two campsites or more.

(2) Minimum campsite requirements. The minimum campsite shall conform to the following:

a. Campsite area - minimum of one thousand three hundred square feet (1,300 sq. ft.).

b. Campsite width - minimum of twenty feet (20 ft.).

c. Campsite length - minimum of sixty-five feet (65 ft.).

(3) Minimum building setback requirements for permitted permanent structures:

a. Fifteen feet from any public right of way or interior access driveway.

b. Fifteen feet from any campsite boundary line.

c. Fifteen feet from any trailer camp and/or tourist campground boundary.

C. Interior Access Driveways. Driveways and other access ways within a trailer camp/tourist campground shall be constructed and maintained in good condition by the owner or developer so as to be easily passable during all seasons when the trailer camp/tourist campground is in use. Interior access driveways shall not be dedicated as public rights of way unless otherwise approved or required by the City Council. Interior access driveways shall observe the following minimums:

(1) Cul-de-Sacs. Cul-de-sac driveways and driveways designated to have one end permanently closed shall have a minimum turning radius of fifty feet (50').

(2) **Parking Requirements.** A minimum of one off-street parking space shall be provided adjacent to, or conveniently near, each campsite.

(3) **Access Driveway Lighting.** Adequate access driveway lighting shall be provided based on recommendations by the local electric utility.

(4) **Dust Control.** Continuous dust control through the regular application of a non-toxic palliative.

D. **Utilities and Other Services.** The construction and maintenance of all water, sewer, electrical, communication and miscellaneous (television cable, etc.) service lines shall be under the supervision of the public or private utility agency having jurisdiction in accordance with all applicable State and local codes, policies and regulations.

E. **Water Supply and Distribution System.** Each trailer camp/tourist campground shall be connected to the Marquette municipal system if required under City Code Section 90.03. If such a connection is not required water shall be provided by means of a private well permitted by the County Sanitarian. Individual water service connection shall be provided for each campsite.

F. **Sewage Disposal.** Each trailer camp/tourist campground shall be connected to the Marquette municipal sewer system to the extent required under City Code Section 95.05. If such connection is not required a private sewage disposal system permitted by the County Sanitarian shall be installed.

G. **Electrical Distribution System.** Each trailer camp/tourist campground shall be provided with an electrical distribution system in accordance with policies and specifications of the State of Iowa.

H. **Solid Waste Disposal System.** Solid waste collection facilities shall be screened from view with appropriate landscaping and/or screening as indicated on the approved landscaping plan. All garbage and refuse shall be placed in sealed containers and placed in the appropriate trash receptacle (i.e. dumpster).

I. **Performance Bond.** The Board of Adjustment may require a performance bond or other acceptable security to insure

development of the project consistent with the site plan and conditions imposed by the Board.

J. Additional Requirements. As a condition of approval for a special exception to permit a trailer camp/tourist campground, the Board of Adjustment may impose additional, reasonable conditions and requirements designed to promote public health, safety and general welfare, including protective fencing and a storm shelter for patrons.

3. Site Plan Required. No trailer camp/tourist campground special exception shall be considered by the Board of Adjustment until the applicant has submitted a site plan to the Zoning Administrator in conformity with the following:

A. Site plans shall be legible drawn to scale. Submit one electronic version and 10 hard copies.

B. A vicinity map showing the location and area of the proposed trailer camp/tourist campground.

C. The boundary lines, area, and boundary and dimensions of the proposed trailer camp/tourist campground.

D. The location and dimensions, if any, of all existing streets, right of ways, easements, water, sewerage, drainage facilities, and other community facilities and utilities on or adjacent to the proposed trailer camp/tourist campground.

E. Proposed layout, including interior access driveways with dimensions, location and type of solid waste collection facilities, campsite boundaries and dimensions, and common open space and recreation areas, common parking areas and other common areas, recreation buildings, if any, and other permanent structures.

F. Plan for adequate drainage designed to avoid drainage problems. Proposed layout shall consider terrain and its effect on adequate drainage away from the proposed campsites and in the design of interior access driveways with channels or drainage structures to assure that ponding or other associated drainage problems will not occur.

G. A specific landscaping plan for the trailer camp/tourist campground shall be submitted as part of the site plan. Landscaping material shall conform to and be installed in accordance with the site plan. The landscaping plan shall include open areas that are natural in character.

- H. If applicable, a statement regarding compliance with relative floodplain, wetland, and other local, State, and Federal regulations.
 - I. Compliance with the requirements of subsection 2 and other requirements as may be deemed necessary by the Zoning Board of Adjustment as a condition of the special exception.
 - J. Projected date of commencement and completion of trailer camp/tourist campground project construction.
4. Construction Compliance Certificate. If the Board of Adjustment grants the applicant a special exception, the applicant shall secure a Construction Compliance Certificate from the Zoning Administrator prior to commencement of any construction work on the trailer camp/tourist campground project.
- A. Suspension or Revocation. The Zoning Administrator may suspend or revoke a certificate if project construction does not proceed in compliance with the site plan and the Board of Adjustment approval.
 - B. Expiration. The Construction Compliance Certificate issued by the administrative officer shall expire by limitation and become null and void if construction on the trailer camp/tourist campground project is not commenced within one hundred eighty (180) days from the date of the certificate, if work is suspended or abandoned at any time after the work is commenced for a period of ninety (90) days, or if the construction work is not completed within one year from the date of the certificate. Upon expiration the Zoning Administrator shall revoke the certificate and the applicant shall restore the property to its previous condition.
 - C. If a certificate is revoked, the construction work shall not be recommenced until a new construction compliant certificate is obtained, and only upon payment of a new certificate fee and approval by the Board of Adjustment, provided that no changes have been made or will be made in the original plans and specifications for the project; and provided further that the project has not been dormant for a period exceeding one (1) year.
 - D. Notwithstanding the foregoing, any certificate holder may apply for an extension of time within which to commence work under the certificate when the applicant is unable to commence work or complete construction of the project within the time required by this subsection for good and satisfactory reasons. The

application for extension shall be made to the Board of Adjustment and the Board may extend the time for action by the certificate holder for a period not exceeding one hundred eighty (180) days. No certificate shall be extended more than once.

5. Miscellaneous Regulations.

A. To the extent any minimum requirements or other regulations for trailer camps and/or tourist campgrounds conflict with regulations set forth elsewhere in this chapter for the C-1 zone, the requirements of this section shall control.

B. All nuisance regulations, including pet restrictions, set forth elsewhere in the municipal code shall be applicable in all trailer camps and/or tourist campgrounds.

C. Open fires may be permitted on campsites but only within non-combustible fire rings no more than three feet in diameter.

6. Waiver. Where, due to topography or other special circumstances, compliance with the requirements of this chapter would result in unnecessary hardship, the Board of Adjustment, by a favorable vote of at least three-fourths ($\frac{3}{4}$) of all members of the Board, may waive any specific requirements of this section. Any such waiver shall be by resolution and state the special circumstances supporting such waiver and the reasons such waiver will promote the general welfare and best interests of the community.

(Section 164.48 added by Ord. 377 – Dec. 14 Supp.)

CHAPTER 166

SUBDIVISION REGULATIONS

| | |
|---|--|
| 166.01 Title | 166.15 Requirements of the Final Plat |
| 166.02 Purpose | 166.16 Final Plat Attachments |
| 166.03 Authority | 166.17 Action by the Council |
| 166.04 Territorial Application | 166.18 Design Standards for Streets and Alleys |
| 166.05 Definitions | 166.19 Design Standards for Blocks |
| 166.06 Subdivision Plat Requirements | 166.20 Design Standards for Lots |
| 166.07 Compliance and Enforcement | 166.21 Building Lines |
| 166.08 Application and Fee | 166.22 Easements |
| 166.09 Requirements of Preliminary Plat | 166.23 Plat Markers |
| 166.10 Referral of Preliminary Plat | 166.24 Improvements Required |
| 166.11 Action by the City Engineer | 166.25 Completion of Improvements |
| 166.12 Action by the Council | 166.26 Variances |
| 166.13 Final Plat | 166.27 Changes and Amendments |
| 166.14 Referral of Final Plat | 166.28 Auditor's Plats |

166.01 TITLE. This chapter shall be known and may be cited as “The City of Marquette, Iowa, Subdivision Control Ordinance.”

166.02 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare in the City. This chapter is intended to impose a subdivision plat requirement in many situations where State law does not or may not impose such a requirement.

166.03 AUTHORITY. These regulations are adopted pursuant to the authorization contained in Chapter 354 of the Code of Iowa, as amended, and this chapter shall be applied and interpreted consistently with the provisions of Chapter 354. However, where the requirements of this chapter are more stringent than Chapter 354, this chapter shall control.

166.04 TERRITORIAL APPLICATION. This chapter shall apply to subdivisions of and subdivision plats prepared for any land located within the corporate limits of the City and, pursuant to Section 354.9 of the Code of Iowa, to any land located within two miles of the corporate limits which is within the State of Iowa and not within the corporate limits of any other City.

166.05 DEFINITIONS. As used in this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-

half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

2. “Alley” means a public service way or right-of-way, other than a street, designed to provide a secondary means of access to abutting property.

3. “Auditor” means the County Auditor of Clayton County, Iowa.

4. “Auditor’s plat” means a subdivision plat required by the Auditor, prepared by a surveyor under the direction of the Auditor.

5. “Block” means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.

6. “Building line” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.

7. “City Engineer” means a licensed engineering firm in the State, employed by the City, and working on behalf of the City.

8. “Cul-de-sac” means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

9. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance, plat of survey or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for purposes of this chapter.

10. “Easement” means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner’s property. Such purpose shall be in writing on the face of the final plat.

11. “Final plat” means the graphical representation of a subdivision of land prepared in the form which, if approved by the Council, will be filed and recorded with the County Recorder.

12. “Frontage road” means a local or collector street auxiliary to and located on the side of an arterial street for control of access and to collect and distribute traffic to abutting development.

13. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.

14. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

15. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of Iowa Code Chapter 354 and this chapter and has been filed for record in the offices of the County Recorder, Auditor and Assessor. Any plat which is a “subdivision plat” as defined in Iowa Code Section 354.2(17) and which was recorded in the offices of the County Recorder and Auditor prior to June 1, 1997, shall be deemed an “official plat” for purposes of this chapter.

16. “Parcel” means a part of a tract of land.

17. “Performance bond” means a guarantee in writing backed by substantial assets pledged by any financial institution, insurance company, or other party of substantial financial standing being bound with its principal for the payment of a sum of money or for the performance of some duty or promise required of the party being serviced and being of sufficient amount to secure to the City that the required subdivision improvement will be provided in accordance with this chapter.

18. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

19. “Preliminary plat” means the graphical representation of a subdivision of land, prepared by a registered land surveyor, indicating the proposed manner or layout of a subdivision, which is submitted to the Council for consideration and preliminary approval, and is used as the basis for drafting a final plat.

20. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement or lien interest.

21. “Street” or “road” means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.

22. “Street, arterial” means an existing or proposed street which is or would be planned to carry through traffic on a continuous route through the City, and is identified as such on the City’s street plan map.

23. “Street, collector” means a street intended to carry vehicular traffic from local or minor streets to arterial streets or traffic generators.

24. “Street, local” means a street used primarily for access to abutting property.
25. “Subdivider” means the proprietor of a tract or parcel of land who divides or proposes to divide such tract or parcel in such a manner as to cause or create a subdivision.
26. “Subdivision” means a tract or parcel of land divided or proposed to be divided, either by repeated or simultaneous divisions, so as to cause there to be three or more parcels in a single tract. The existence of a subdivision shall be determined without regard to any of the following:
- A. Whether the divisions are carried out by the same or successive owners of the tract or parcel,
 - B. Whether any parcels resulting from the division are described by metes and bounds, and
 - C. Whether any plats of survey have been or are proposed to be recorded for any of the parcels.

The existence of a subdivision shall be determined with reference to the smallest tract of which the land divided or to be divided is a part, taking into account any parcels created from the same tract by previous divisions but disregarding any tract previously created from part of the same tract. If the land to be divided constitutes a previously undivided tract, such tract shall be deemed the “smallest tract” for purposes of the preceding sentence. If contiguous tracts or parcels are subdivided simultaneously, all the land involved by be treated as a single subdivision.

27. “Subdivision plat” means the graphical representation of a subdivision of land or all of that part of a subdivision of land owned by the subdivider, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for Clayton County, Iowa. Both “preliminary plats” and “final plats” are subdivision plats. A subdivision plat shall cover only land owned by the subdivider unless adjoining land owners are jointly subdividing their properties.
28. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to the Code of Iowa.
29. “Tract” means an aliquot part of a section or a lot within an official plat. For purposes of determining the existence of a subdivision, a tract located within a larger tract shall not be considered a part or division of the larger tract.

166.06 SUBDIVISION PLAT REQUIREMENTS. Except as provided in this section, a subdivision plat shall be made and recorded when a subdivision is caused or created. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvement purposes or, unless required by State law, by any plat of survey or conveyance by the City.

166.07 COMPLIANCE AND ENFORCEMENT. The subdivision of land located within the territory to which this chapter applies shall be governed by this chapter and every subdivider of land shall comply with the requirements of this chapter. However, the provisions of this chapter shall apply to Auditor's plats which are also subdivision plats only to the extent consistent with the provisions of Iowa Code Chapter 354. In addition to other remedies or penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. **Recording Prohibited.** No subdivision plat or any other document causing or creating a subdivision of land shall be recorded in the office of the Clayton County Recorder, nor shall any such plat or subdivision have any validity in the absence of compliance with the provisions of this chapter, including approval or waiver of review by resolution of the Council as prescribed herein.
2. **Public Improvements.** If a subdivision plat or other document causing or creating a subdivision of land is recorded in violation of this chapter, no streets or other public use areas within the subdivided land shall be recognized by the City or deemed accepted by the Council for public use, nor shall any City funds be expended for public improvements, maintenance or other services within the subdivided land; nor shall any public funds be expended for such purposes with respect to subdivision plats approved in accordance with this chapter until all public improvements required as a condition of such approval have been installed, inspected and accepted by the Council unless otherwise provided in an agreement entered into pursuant to subsection 166.25(4) of this chapter.
3. **Municipal Infraction.** It is a municipal infraction for any proprietor to violate any provision of this chapter.
4. **Action to Annul Plat.** If a subdivision plat is filed and recorded in violation of this chapter, the Council, after filing written notice with the proprietors who have joined in the acknowledgment of the plat or their successors in interest, may institute a suit in equity in district court for annulment of the plat pursuant to Iowa Code Section 354.20.

166.08 APPLICATION AND FEE. Every subdivider seeking approval of or waiver of review by the Council of a proposed subdivision plat shall

complete and file with the Clerk, with the preliminary plat, an application for approval of the subdivision plat on a form supplied by the Clerk. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by resolution of the Council.

166.09 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall first prepare and file with the Clerk seven (7) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitations.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the City.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical

intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater, unless the Council waives this requirement.

166.10 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and five (5) copies to the Council. In the alternative, in appropriate cases where, because of minimal scope, it appears a proposed subdivision will have not appreciable impact on community development or the provision of public improvements or services, the Clerk, with the approval of the Mayor, may refer the preliminary plat directly to the Council.

166.11 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices and shall, as soon as possible, submit findings in duplicate to the Council, together with one copy of the plat received.

166.12 ACTION BY THE COUNCIL. The Council shall, upon receiving the report of the City Engineer, or upon direct referral by the Clerk, as soon as possible, but not more than thirty (30) days thereafter, consider said report, if any, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Council does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. The Council shall then set forth its decision by resolution, whether of approval, modification, disapproval or waiver of right to review.

1. In the event that substantial changes or modifications are made by the Council or disapproval of the plat, the Council shall give its reasons therefor and may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the Council shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.
3. The action of the Council shall be noted on five (5) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other copies retained by the Council.
4. The "Conditional Approval" by the Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

5. In appropriate cases where, because of minimal scope, a proposed subdivision will have no appreciable impact on community development or the provision of public improvements or services, the Council may grant a waiver of the right to review the subdivision plat. A waiver of the right to review shall constitute the grant of a variance of all standards and requirements imposed by this chapter except that the final plat attachments specified in subsections 1 through 6 of Section 166.16 shall not be subject to waiver if the plat includes any areas or improvements to be dedicated to the public. If the right to review is waived by the Council, the requirements of this chapter relating to final plats shall not be applicable except with respect to final plat attachments as set forth in this subsection.

166.13 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

166.14 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the Council, prepare and file seven (7) copies of the final plat and other required documents with the Clerk as hereinafter set forth, and upon failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Council. Upon receipt of the final plat and other required documents, the Clerk shall transmit five (5) copies of the final plat to the Council for its consideration and approval.

166.15 REQUIREMENTS OF THE FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one inch with India ink on a reproducible tracing linen. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the standards of the Clayton County E-911 Board. The Council shall be the final authority for determining street names.

4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
5. The plat should be signed and acknowledged by the subdivision land owner and his or her spouse.
6. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

166.16 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
2. 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.
3. 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, together with a duly executed and acknowledged release of such mortgages or liens with respect to any areas proposed to be dedicated to the public. In lieu of such written consents and releases by mortgage holders or lienholders, an affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be submitted with the final plat.
4. 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.
5. A certificate of the County Treasurer that the land included in the proposed plat 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. If the plat includes no land set apart for streets, alleys, parks, open areas, school property or other public use other than utility easements, the certificate of the Treasurer need only

state that the land is free from certified taxes other than certified special assessments.

6. A complete statement of restrictions of all types that will run with the land and become covenants in all conveyances of lots in the subdivision.

7. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.

8. A certificate by the proprietor's engineer that all required improvements have been completed in accordance with City specifications, or that a performance bond guaranteeing completion of all required improvements has been approved by the City Attorney and filed with the Clerk, or that an agreement relating to the future construction of the required improvements has been entered into between the City and the subdivider pursuant to Section 166.25(4) of this chapter. If such an agreement exists, a copy of it shall also be attached to the final plat.

9. Resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

10. The encumbrance bond, if any.

166.17 ACTION BY THE COUNCIL. Upon receipt of the final plat, as soon as possible, but not more than thirty (30) days thereafter, the Council shall either approve or disapprove the final plat by resolution.

1. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.

2. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall approve the same.

3. The passage of a resolution by the Council approving the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder, and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

4. Approval of the final plat by the Council shall constitute a variance as to any requirements of this chapter with regard to which there has not been compliance, except for the plat attachment requirements specified in subsections 1 through 6 of Section 166.16.

166.18 DESIGN STANDARDS FOR STREETS AND ALLEYS. The following design standards shall be followed by all subdividers:

1. General Requirements.
 - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - B. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - C. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Council to meet a particular situation where topographical or other conditions make continuation or conformance to existing streets impracticable.
 - D. Half streets shall be prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the Council finds it reasonable to require dedication of the other half when the adjoining tract is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
2. Right-of-way. Minimum rights-of-way shall be provided as follows:
 - A. Arterial Streets – 66 feet minimum. Greater width may be required in accordance with City, County or State plans.
 - B. Collector streets – 66 feet.
 - C. Residential streets – 66 feet.
 - D. Cul-de-sacs – 120 feet in diameter.
 - E. Alleys – 20 feet.
3. Surface Width. Minimum width of surfacing to be provided shall be as follows:
 - A. Arterial streets – 45 feet, including curb and gutter.
 - B. Collector and local streets – 31 feet, including curb and gutter.
 - C. Cul-de-sacs – 100 feet in diameter, including curb and gutter.

- D. Alleys – 20 feet.
- 4. Acreage Subdivisions.
 - A. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
 - B. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
 - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
- 5. Minor Streets.
 - A. Minor streets shall be so planned as to discourage through traffic.
 - B. Cul-de-sac streets are permitted where topography and other conditions justify their use.
- 6. Frontage Streets.
 - A. Where a subdivision abuts or contains an existing or proposed arterial street, the Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
 - B. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- 7. Street Geometrics.
 - A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

- B. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
 - C. Cul-de-sacs shall not exceed 600 feet in length.
 - D. Proposed streets shall be adjusted to the contour of the land where possible so as to produce usable lots and streets of reasonable gradient.
 - E. No dead-end streets or alleys, other than cul-de-sacs, will be permitted except at subdivision boundaries.
 - F. Arterial and collector streets in a subdivision shall extend through the boundaries thereof.
 - G. Intersection of more than two streets at a point shall not be permitted.
 - H. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the Council shall determine for special cases.
8. Intersections.
- A. Insofar as in practical, acute angles between streets at their intersection are to be avoided.
 - B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
 - C. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the Council may deem it necessary. The Council may permit comparable cutoffs or chords in place of rounded corners.
9. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Council.
10. Street Grades.
- A. Street grades, wherever feasible, shall not exceed five percent (5%), with due allowance for reasonable vertical curves.

- B. No street grade shall be less than one-half of one (1) percent.
11. Alleys.
- A. Alleys shall be provided in commercial and industrial districts, except that the Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
 - B. The width of an alley shall be twenty (20) feet.
 - C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
 - D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Council.

166.19 DESIGN STANDARDS FOR BLOCKS.

1. No block may be more than 1,320 feet or less than 500 feet in length between the centerlines of intersecting streets, except where, in the opinion of the Council, extraordinary conditions unquestionably justify a departure from these limits.
2. In blocks over 700 feet in length, the Council may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

166.20 DESIGN STANDARDS FOR LOTS. Lot design standards shall be as follows:

1. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
2. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance, provided:
 - A. Residential lots where not served by public sewer shall not be less than 80 feet wide nor less than one acre in area.
 - B. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.

3. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

4. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

5. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

166.21 BUILDING LINES. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of each subdivision.

166.22 EASEMENTS.

1. Easements across lots or centered on rear or side lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide. If for any reason the property adjoining a lot subject to an easement required under this subsection is not subject to a similar easement, the easements required by this subsection shall be not less than twenty (20) feet in width.

2. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.

166.23 PLAT MARKERS. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City Engineer. The markers shall be of such material, size and length as may be approved by the City Engineer.

166.24 IMPROVEMENTS REQUIRED. All improvements required as a condition for approval of a subdivision plat shall be installed and constructed in

accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the Council may require.
3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City water department standards, procedure and supervision.
6. Sewers.
 - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the City Engineer.
 - B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.
 - C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the City Engineer.

166.25 COMPLETION OF IMPROVEMENTS. The specific location, capacity and timing for the construction and placement of required improvements shall be determined in the preliminary platting process. The subdivider shall install and construct all improvements required by this chapter prior to final approval of the subdivision plat by the Council unless one of the following applies:

1. The Council waives its right to review the plat.
2. A variance from the requirements of this chapter is granted by the Council in granting final approval for the plat.
3. Prior to final action by the Council on the subdivision plat or prior to any reconsideration thereof following disapproval, the subdivider has, with the approval of the Council, secured a performance bond with corporate surety guaranteeing completion of all required improvements within one year, and such bond has been approved by the City Attorney and filed with the Clerk.
4. Prior to final action by the Council on the plat, or prior to any reconsideration thereof by the Council following disapproval, the City and the subdivider have entered into an agreement which, in the opinion of the Council, provides adequate assurance that all required improvements will be constructed within a reasonable time and establishes a funding mechanism for the cost of such improvements. Such an agreement may include provisions for the establishment of an escrow fund whereby some portion of the proceeds from future lot sales may be reserved and used for construction costs, and/or for the use of special assessments, and such other terms as to which the parties may agree. However, such an agreement shall not permit the delay of any required water and sewer utility improvements which may be delayed until after final plat approval only pursuant to subsection 3 of this section relating to performance bonds. This subsection does not create any duty on the part of the City to enter into an agreement of the type authorized herein.

166.26 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the

requirements and in no instance shall it be in conflict with any Zoning Ordinance.

166.27 CHANGES AND AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council, provided however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four (4) or more than twenty (20) days before the date of the hearing.

166.28 AUDITOR'S PLATS.

1. An auditor's plat, prepared pursuant to Iowa Code Section 354.13 and filed with the Clerk pursuant to Iowa Code Section 354.15, shall be exempt from the requirements of this chapter except for this section.
2. If the auditor's plat conforms to the requirements of Iowa Code Chapter 355, the Council shall, within sixty (60) days of the date of filing, approve the plat by resolution and certify the resolution to be recorded with the plat.
3. The resolution approving the auditor's plat shall state whether the lots within the auditor's plat meet the standards and conditions established by this chapter for subdivision lots.
4. The approval of an auditor's plat by the Council shall not impose any liability upon the City to accept dedication of any public use areas within the land included in the plat nor shall such approval impose any liability on the City to install or maintain any public improvements or utilities within the platted area; provided, however, the Council may, at its option, in the approving resolution, accept the dedication of any areas designated for public use.
5. Approval of an auditor's plat by the Council shall not constitute a waiver of the requirements of this chapter.

o o o o o o o o o

CODE OF ORDINANCES

CITY OF MARQUETTE, IOWA

GENERAL CODE PROVISIONS

| | |
|---|-----------|
| CHAPTER 1 – CODE OF ORDINANCES | 1 |
| CHAPTER 2 – CHARTER..... | 9 |
| CHAPTER 3 – MUNICIPAL INFRACTIONS..... | 11 |
| CHAPTER 5 – OPERATING PROCEDURES | 21 |
| CHAPTER 6 – CITY ELECTIONS..... | 29 |
| CHAPTER 7 – FISCAL MANAGEMENT | 35 |
| CHAPTER 8 – URBAN RENEWAL | 41 |

ADMINISTRATION, BOARDS AND COMMISSIONS

| | |
|---|------------|
| CHAPTER 15 – MAYOR | 71 |
| CHAPTER 16 – MAYOR PRO TEM..... | 73 |
| CHAPTER 17 – COUNCIL | 75 |
| CHAPTER 18 – CITY CLERK-TREASURER..... | 83 |
| CHAPTER 19 – CITY ATTORNEY | 89 |
| CHAPTER 20 – ZONING COMMISSION..... | 91 |
| CHAPTER 21 – DOCK COMMISSION | 95 |
| CHAPTER 22 – CITY MANAGER..... | 99 |
| CHAPTER 23 – DRIFTLESS AREA WETLANDS CENTRE BOARD OF DIRECTORS | 105 |

TABLE OF CONTENTS

POLICE, FIRE AND EMERGENCIES

| | |
|--------------------------------------|-----|
| CHAPTER 30 – POLICE DEPARTMENT | 145 |
| CHAPTER 35 – FIRE PROTECTION | 151 |

PUBLIC OFFENSES

| | |
|--|-----|
| CHAPTER 40 – PUBLIC PEACE | 185 |
| CHAPTER 41 – PUBLIC HEALTH AND SAFETY | 189 |
| CHAPTER 42 – PUBLIC AND PRIVATE PROPERTY | 195 |
| CHAPTER 43 – RESIDENCY RESTRICTIONS FOR SEX OFFENDERS..... | 199 |
| CHAPTER 45 – ALCOHOL CONSUMPTION AND INTOXICATION | 225 |
| CHAPTER 46 – MINORS | 227 |
| CHAPTER 47 – PARK REGULATIONS | 233 |
| CHAPTER 48 – DRUG PARAPHERNALIA | 237 |

NUISANCES AND ANIMAL CONTROL

| | |
|---|-----|
| CHAPTER 50 – NUISANCE ABATEMENT PROCEDURE | 255 |
| CHAPTER 51 – JUNK VEHICLES ON PRIVATE PROPERTY..... | 261 |
| CHAPTER 55 – ANIMAL PROTECTION AND CONTROL..... | 275 |
| CHAPTER 56 – DANGEROUS AND VICIOUS ANIMALS..... | 279 |
| CHAPTER 57 – REGISTRATION AND VACCINATION | 283 |

TRAFFIC AND VEHICLES

| | |
|--|-----|
| CHAPTER 60 – ADMINISTRATION OF TRAFFIC CODE..... | 301 |
| CHAPTER 61 – TRAFFIC CONTROL DEVICES | 305 |
| CHAPTER 62 – GENERAL TRAFFIC REGULATIONS..... | 307 |
| CHAPTER 63 – SPEED REGULATIONS | 315 |
| CHAPTER 64 – TURNING REGULATIONS | 319 |

TABLE OF CONTENTS

TRAFFIC AND VEHICLES (CONTINUED)

| | |
|--|-----|
| CHAPTER 65 – STOP OR YIELD REQUIRED..... | 321 |
| CHAPTER 66 – LOAD AND WEIGHT RESTRICTIONS..... | 325 |
| CHAPTER 67 – PEDESTRIANS..... | 331 |
| CHAPTER 68 – ONE-WAY TRAFFIC..... | 333 |
| CHAPTER 69 – PARKING REGULATIONS..... | 335 |
| CHAPTER 70 – TRAFFIC CODE ENFORCEMENT PROCEDURES..... | 355 |
| CHAPTER 74 – ALL-TERRAIN VEHICLES AND OFF-ROAD UTILITY VEHICLES..... | 359 |
| CHAPTER 75 – SNOWMOBILES..... | 365 |
| CHAPTER 76 – BICYCLE REGULATIONS..... | 371 |
| CHAPTER 80 – ABANDONED VEHICLES..... | 381 |
| CHAPTER 81 – RAILROAD REGULATIONS..... | 385 |

WATER

| | |
|--|-----|
| CHAPTER 90 – WATER SERVICE SYSTEM..... | 401 |
| CHAPTER 91 – WATER METERS..... | 407 |
| CHAPTER 92 – WATER RATES..... | 409 |
| CHAPTER 93 – PROTECTION OF PUBLIC WATER WELLS..... | 415 |
| CHAPTER 94 – PRIVATE WELLS..... | 417 |

SANITARY SEWER

| | |
|---|-----|
| CHAPTER 95 – SANITARY SEWER SYSTEM..... | 421 |
| CHAPTER 96 – BUILDING SEWERS AND CONNECTIONS..... | 427 |
| CHAPTER 97 – USE OF PUBLIC SEWERS..... | 435 |
| CHAPTER 98 – ON-SITE WASTEWATER SYSTEMS..... | 441 |
| CHAPTER 99 – SEWER SERVICE CHARGES..... | 443 |

TABLE OF CONTENTS

GARBAGE AND SOLID WASTE

| | |
|---|-----|
| CHAPTER 105 – SOLID WASTE CONTROL..... | 451 |
| CHAPTER 106 – COLLECTION OF SOLID WASTE | 459 |

FRANCHISES AND OTHER SERVICES

| | |
|---|-----|
| CHAPTER 110 – ELECTRIC FRANCHISE | 471 |
| CHAPTER 111 – CABLE TELEVISION FRANCHISE AND REGULATIONS..... | 477 |

REGULATION OF BUSINESS AND VOCATIONS

| | |
|--|-----|
| CHAPTER 120 – LIQUOR LICENSES AND WINE AND BEER PERMITS..... | 551 |
| CHAPTER 121 – CIGARETTE PERMITS..... | 555 |
| CHAPTER 122 – PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS | 559 |
| CHAPTER 123 – HOUSE MOVERS | 565 |
| CHAPTER 124 – PAWNBROKERS | 569 |
| CHAPTER 125 – EXCURSION GAMBLING BOATS..... | 573 |
| CHAPTER 126 – JUNKYARD REGULATIONS..... | 575 |
| CHAPTER 127 – REGISTRY OF DRUG PRECURSOR SALES | 581 |
| CHAPTER 128 – HOTEL/MOTEL TAX | 583 |

STREETS AND SIDEWALKS

| | |
|--|-----|
| CHAPTER 135 – STREET USE AND MAINTENANCE | 591 |
| CHAPTER 136 – SIDEWALK REGULATIONS | 601 |
| CHAPTER 137 – VACATION AND DISPOSAL OF STREETS | 609 |
| CHAPTER 138 – STREET GRADES | 611 |
| CHAPTER 139 – NAMING OF STREETS | 613 |
| CHAPTER 140 – DRIVEWAYS..... | 615 |

TABLE OF CONTENTS

BUILDING AND PROPERTY REGULATIONS

| | |
|---|-----|
| CHAPTER 145 – DANGEROUS BUILDINGS | 625 |
| CHAPTER 146 – MANUFACTURED AND MOBILE HOMES..... | 629 |
| CHAPTER 147 – UTILITY SERVICE LINE CONNECTIONS | 633 |
| CHAPTER 148 – PROPERTY MAINTENANCE REQUIREMENTS | 639 |
| CHAPTER 150 – BUILDING NUMBERING..... | 645 |
| CHAPTER 151 – TREES..... | 647 |
| CHAPTER 155 – SIGNS..... | 671 |
| CHAPTER 156 – EROSION CONTROL | 685 |
| CHAPTER 160 – FLOODPLAIN MANAGEMENT REGULATIONS | 701 |

ZONING AND SUBDIVISION

| | |
|---|-----|
| CHAPTER 165 – ZONING REGULATIONS | 745 |
| CHAPTER 166 – SUBDIVISION REGULATIONS | 825 |

INDEX

APPENDIX:

| | |
|--|----|
| USE AND MAINTENANCE OF THE CODE OF ORDINANCES | 1 |
| SUGGESTED FORMS: | |
| DANGEROUS BUILDINGS - FIRST NOTICE..... | 9 |
| DANGEROUS BUILDINGS - NOTICE OF HEARING | 10 |
| DANGEROUS BUILDINGS - RESOLUTION AND ORDER..... | 11 |
| NOTICE TO ABATE NUISANCE | 13 |
| NOTICE OF REQUIRED SEWER CONNECTION..... | 14 |
| NOTICE OF HEARING ON REQUIRED SEWER CONNECTION | 15 |
| RESOLUTION AND ORDER..... | 16 |
| SIDEWALK DEFECTS | 18 |