

CHAPTER 1

CODE OF ORDINANCES

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

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances:

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the City of Fayette, Iowa.
3. "City Administrator/Clerk" means the chief administrative official of the City, serving in the combined office of city administrator and clerk.
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 Fayette, Iowa, 1996.
6. "Council" means the city council of Fayette, Iowa.

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7. "County" means Fayette County, Iowa.
8. "Measure" means an ordinance, amendment, resolution or motion.
9. "Month" means a calendar month.
10. "Oath" means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are equivalent to the words "swear" and "sworn."
11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Fayette, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

20. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
21. "State" means the State of Iowa.
22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
23. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a

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part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

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

(Code of Iowa, Sec. 364.14)

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

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

be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

1.10 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall be guilty of a simple misdemeanor and, upon conviction, be subject to a fine of not more than one hundred dollars (\$100.00) or imprisonment not to exceed thirty (30) days.

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

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

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CHAPTER 2

CHARTER

2.01 Title

2.04 Number and Term of Council

2.02 Form of Government

2.05 Term of Mayor

2.03 Powers and Duties

2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of Fayette, 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 congruent terms of two (2) 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 City Administrator/Clerk shall keep an official copy of the charter on file with the official records of the City Administrator/Clerk and the Secretary of State, and shall keep copies of the charter available at the Administrator/Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)

EDITOR'S NOTE

Ordinance No. 254 adopting a charter for the City was passed and approved by the Council on August 20, 1973, and published on August 22, 1973.

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CHAPTER 3

BOUNDARIES

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

A parcel located in the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of Section 20, Township 93 North, Range 8 West of the Fifth P.M., described as follows:

Commencing at a point in the center of the Fayette & West Union Road 5 chains 25 links south 4½° east and 1 chain 50 links south 59½° east from the northwest corner of the Northeast Quarter (NE¼) of the Southeast Quarter (SE¼) of Section 20, Township 93, Range 8 and running thence south 30½° west 4 chains, thence north 59½° west 2 chains 50 links, thence north 30½° east 4 chains to the center of said road, thence south 59½° east along the center of said road 2 chains 50 links to the place of beginning, containing one acre.

The East Half (E½) of the Southeast Quarter (SE¼) of Section 20, Township 93 North, Range 8 West of the Fifth P.M.

The Southwest Quarter (SW¼) of the Southwest Quarter (SW¼).

The West Half (W½) of the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 21, Township 93 North, Range 8 West of the Fifth P.M.

The Northwest Quarter (NW¼).

The West Half (W½) of the Northeast Quarter (NE¼).

The Southwest Quarter (SW¼).

The Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of Section 28, Township 93 North, Range 8 West of the Fifth P.M.

A parcel in the East Half (E½) of the Northeast Quarter (NE¼) of Section 28, Township 93 North, Range 8 West of the Fifth P.M., described as follows:

Commencing at the northwesterly corner of the Northeast Quarter (NE¼) of the Northeast Quarter (NE¼) of said Section 28, thence southerly a distance of 930 feet, more or less, to the point of beginning, thence north 88°43'33" east 420.00 feet; thence south 00°00'00" west 500.00 feet, thence south 88°43'33" east 420.00 feet, thence south 00°00'00" west 500.00 feet thence south 88°43'33" west 420.00 feet thence north 00°00'00" east 500.00 feet to the point of beginning, containing 4.8 acres, more or less; more accurately and particularly described as follows: Commencing at the northeast corner of said Section 28, thence north 86°16'40" west, a distance of 1,328.76 feet along the northerly line of said Section 28 to a point, thence south 00°48'08" east a distance of 937.49 feet to the point of beginning, thence north 87°55'25" east a distance of 420.00 feet to a point, thence south 87°55'25" west a distance of 420.00 feet to a point, thence north 00°48'08" a distance of 500.00 feet to the point of beginning, containing 4.82 acres, more or less.

The East Half (E½) of Section 29, Township 93 North, Range 8 West of the Fifth P.M.

Two parcels located in the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of Section 33, Township 93 North, Range 8 West of the Fifth P.M., described as follows:

The north 6 acres of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of said Section 33 (except 4 acres on the east side thereof; also excepting 1½ acres in the northwest corner of the remainder conveyed to John Hawthorne; also excepting so much of said land as lies west of the public highway running through said land in a general northerly and southerly direction); and 16 rods north and south by 20 rods east and west in the northeast corner of the west 36 acres of the Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) of said Section 33.

Golf course - Parcel "S" of the Northeast Quarter of Section 28, Township 93

North, Range 8 West of the 5th Principal Meridian, Fayette County, Iowa, more particularly described as follows.

Commence at a found iron rod at the northwest corner of the Northeast quarter of said Section 28:

Thence South 00 degrees 39 minutes 55 seconds West, 1437.61 feet along the west line of the East Half of the Northeast Quarter of said section 28, to a found iron rod at the point of beginning;

Thence North 89 degrees 23 minutes 49 seconds East, 419.87 feet, to a found iron rod;

Thence North 00 degrees 40 minutes 54 seconds East, 166.93 feet, to a found iron rod;

Thence South 60 degrees 00 minutes 00 seconds East, 47.31 feet to a set iron rod;

Thence North 90 degrees 00 minutes 00 seconds East, 232.57 feet, to a set iron rod
at
a point of intersection with a line 15.00 feet easterly of (as measured at right angles)
and parallel to the westerly line of a 50-foot easement to Standard Oil Company,
dated May 21, 1946;

Thence South 12 degrees 53 minutes 41 seconds East, 494.67 feet along said

parallel line, to a set nail at a point of intersection with the centerline of Big Rock Road (66 foot right-of-way):

Thence South 83 degrees 03 minutes 43 seconds West, 476.03 feet along said centerline to a set nail at a point of curvature with a circular curve concave northeasterly, having a radius of 454.13 feet, a central angle of 45 degrees 18 minutes, 23 seconds, and whose chord bears North 74 degrees 17 minutes 06 seconds West, 349.82 feet

Thence westerly along said centerline and the arc of said curve, 359.10 feet, to a set nail at a point of intersection with the aforesaid west line of the East Half of the Northeast Quarter of said Section 28;

Thence North 00 degrees 39 minutes 55 seconds East 297.58 feet along said west line, to the point of beginning. Containing 7.514 acres, more or less and subject to easements, reservations, restriction and rights-of-way of record and not of record. All monuments were placed or shall be placed within one year from the date of this plat is recorded.

All in Fayette County, Iowa.

CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction

4.04 Civil Citations

4.02 Environmental Violation

4.05 Alternative Relief

4.03 Penalties

4.06 Criminal Penalties

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

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

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

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

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

3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

1. Standard Civil Penalties.
 - A. First Offense - Not to exceed \$100.00
 - B. Each Repeat Offense - Not to exceed \$200.00

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

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.
 - B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
 - (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
 - (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - (3) The violation does not continue in existence for more than eight (8) hours.

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, by

certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the City Administrator/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.

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

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

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

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

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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 Fayette 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 Administrator/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, City Administrator/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 City Administrator/Clerk.

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

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

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

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

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

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to inspection by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential.

(Code of Iowa, Sec. 22.1 & 22.2)

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the City Administrator/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 City Administrator/Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the City Administrator/Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

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

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

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that

if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

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

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

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

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.05 Operating Budget Preparation

7.02 Finance Officer

7.06 Budget Amendments

7.03 Cash Control

7.07 Accounting

7.04 Fund Control

7.08 Financial Reports

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

7.02 FINANCE OFFICER. The City Administrator/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)

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3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed thirty dollars (\$30.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

4. Change Fund. The finance officer is authorized to draw a warrant/check for establishing a change fund in the amount of fifty dollars (\$50.00) for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the finance officer, who shall maintain the integrity of the fund.

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 in such form as may be required by the Council.

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than four (4) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the City Administrator/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 Administrator/Clerk and at the City library.

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.

3. Checks. Checks shall be prenumbered and signed by the two of the following individuals: Mayor, City Administrator/Clerk and Deputy Clerk, following Council approval, except as provided by subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained

within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

5. Immediate Payment Authorized. The Council may by resolution authorize the City Administrator/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 October 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 published annual report must be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.06 Applications

8.02 Definitions

8.07 Approval

8.03 Period of Partial Exemption

8.08 Exemption Repealed

8.04 Amounts Eligible for Exemption

8.09 Dual Exemptions Prohibited

8.05 Limitations

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

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

1. "Actual value added" means the actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the local assessor as of January 1 of each year for which the exemption is received.
2. "Distribution center" means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. "New construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and

the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from

the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. “New machinery and equipment assessed as real estate” means new machinery and equipment assessed as real estate pursuant to Section 427A.1, Subsection 1, Paragraph “e”, Code of Iowa, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

5. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

6. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the Code of Iowa, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

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

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

1. For the first year, seventy-five percent (75%)

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

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

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

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

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

from taxation until the new construction has been completed and found to be qualified real estate.

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

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

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CHAPTER 9

URBAN RENEWAL

9.01 Purpose

9.02 1994 City of Fayette Urban Renewal Area

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

9.02 1994 CITY OF FAYETTE URBAN RENEWAL AREA. The provisions of this section apply to the 1994 City of Fayette Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by Resolution No. 9420 adopted on May 16, 1994, and to the Amendment No. One Area identified in Resolution No. 9601 adopted on January 2, 1996 and to the Amendment No. Two Area identified in Resolution 2012-04 adopted on May 7, 2012:

Original Project Area

Beginning at the intersection of Water Street and Union Street; then south on Union Street to County Road C-24; then west on County Road C-24 to Washington Street; then north on Washington Street to Seventh Street; then west on Seventh Street to Mechanics Street; then north on Mechanics Street to Clark Street; then west on Clark Street to Highway 150; then north on Highway 150 to Water Street; then east on Water Street to the point of beginning.

The Fayette Urban Renewal Area includes the full right-of-way of all streets forming the boundary.

Amendment No. One Area

East 120' of the north 603' of Block 1, J.E. Robertson's Addition and J. E.

CODE OF ORDINANCES, FAYETTE, IOWA

Robertson's 2nd Addition.

Amendment No. Two Area

An area bordered by Water Street on the north, Mechanic Street on the west, Clark Street on the south, and North Street on the east

The area also includes the full right-of-way of all streets forming the boundary.

Amended Area shall mean that portion of the City of Fayette, State of Iowa, included within the Original Area, the Amendment No. 1 Area and the Amendment No. 2 Area, which Amended Area includes the lots and parcels located within the area legally described above.

Section 2: The taxes levied on the taxable property in the Amended Area, legally described above hereof, by and for the benefit of the State of Iowa, County of Fayette, Iowa, North Fayette School District and all other taxing districts from and after June 4, 2012 shall be divided as hereinafter provided.

Section 3: As to the Original Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Area upon the total sum of the assessed value of the taxable property in the Original Area as shown on the assessment roll as of January 1, 1993, being the first day of the calendar year preceding the effective date of Ordinance No. 401, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.

As to Amendment No. 1 Area, base period taxes shall be computed in the same manner using the total assessed value of the taxable property in the Amendment No. 1 Area as shown on the assessment roll as of January 1, 1995, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance 413.

As to Amendment No. 2 Area, base period taxes shall be computed in the same manner using the total assessed value of the taxable property in the Amendment No. 2 Area as shown on the assessment roll as of January 1, 2011, being the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of Ordinance 474.

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

Section 5: Unless or until the total assessed valuation of the taxable property in the areas of the Amended Area exceeds the total assessed value of the taxable property in the areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

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

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CHAPTER 10

URBAN REVITALIZATION AREA

10.01 DESIGNATION OF REVITALIZATION AREAS. In accordance with Chapter 404 of the Code of Iowa, a revitalization area is established for the City. The area is in the Residential/Agricultural District of the City and consists of the following described real estate located in Fayette, Fayette County, Iowa:

All of block 1-11 of S. H. Robertson's Addition and that area adjacent to S. H. Robertson's Addition and being a part of parcels 11-28-131-001, 11-28-180-001, 11-28-180-003, 11-28-180-004 and 11-28-180-005; all of Block 1 of Original Town Plat; all of Lots 1-8, 12, Block 5 of J. E. Robertson's Addition; that part of Lots 5, 6 (except the west 40') of Block 6, and Lot 7, Block 7, all of J. E. Robertson's Addition & all of which is located north of C.M.St.P.&P. Railroad property; Lots 8-12 of Block 3, Lots 8-14 of Block 7, Lots 1, 8-14 of Block 6, Lots 1-7 of Block 12, Lots 1-7 of Block 13, west 20' of Lot 3 & all of Lot 4 of Block 5, Lots 1 & 2 of Block 14, all being a part of the Original Town; that part lying south of the Volga River of Lots 3 & 5 of Block 4, west 30' of Lot 1 of Block 1, Lot 2 (except the east 90') of Block 1; all of Lot 3 of Block 1, Lot 11 of Block 7, all being a part of River Addition; Block 4 of Alexander's Addition; Block 6 of River Addition; Blocks 3, 4 of Westfield Addition; Parcel 11-29-202-001 as shown on Property Tax Map number 11-29-201 as found in the office of the Fayette County Assessor; the East Half (E½) of the Southeast Quarter (SE¼) of Section 20 & to include all of parcel 11-20-427-001 as found on Property Tax Map number 11-20-426; the Southwest Quarter of the Southwest Quarter (SW¼ SW¼) of Section 21 except that area east of the County gravel road and north of the Country Club Blacktop; Blocks 3 & 4 of River Addition located north of the Volga River; Lots 8 & 11 of Block 7 of River Addition located north of the Volga River (except that area of Lot 8 located north of the Country Club Road), to include that area of Section 21-93-8 located north of said Lot 8 and south of Country Club Road.

EDITOR'S NOTE

The Urban Revitalization Plan for said revitalization area is on file in the office of the City Administrator/Clerk. Ordinance No. 371 amending the qualifications for eligibility for the Urban Revitalization Plan was adopted by the Council on December 2, 1991.

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CHAPTER 15

MAYOR

15.01 Term of Office

15.04 Compensation

15.02 Powers and Duties

15.05 Voting

15.03 Appointments

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. If the Mayor exercises such veto power, the Mayor shall explain the reason for such veto in a written message to the Council at

the time of the veto. The Council may override the Mayor's veto by a two-thirds majority of the Council members.

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

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

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

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

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

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

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

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

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

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(Code of Iowa, Sec. 372.4)

1. Peace Officers
2. City Treasurer
3. Public Utilities Board
4. Tree Board
5. Library Board of Trustees
6. Park Board
7. Recreation Board
8. Zoning Board of Adjustment

In addition, the Mayor assists the Council in the recommendation of individuals for appointment by the Council for membership on the Planning and Zoning Commission.

15.04 COMPENSATION. The salary of the Mayor is three thousand five hundred dollars (\$3,500.00) per year.

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

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

(Code of Iowa, Sec. 372.4)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council

16.03 Voting Rights

16.02 Powers and Duties

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 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])

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CHAPTER 17

COUNCIL

17.01 Number and Term of Council

17.04 Meetings

17.02 Powers and Duties

17.05 Appointments

17.03 Exercise of Power

17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

CODE OF ORDINANCES, FAYETTE, IOWA

5. 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)

6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by State law or the Code of Ordinances.

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

7. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the beginning of the term of the Council members elected at the election next following the change in compensation.

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

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

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

1. Approved Action by Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the Council members. A motion to spend public funds in excess of ten thousand dollars (\$10,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the Council may repass the ordinance or resolution by a vote of not less than two-thirds of the Council members, and the ordinance or resolution becomes effective upon repassage and publication.

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

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

A. If the Mayor signs the measure, a resolution becomes effective immediately upon signing and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

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

B. If the Mayor vetoes a measure 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 published, unless a subsequent effective date is provided within the measure.

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

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

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

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

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

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

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

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

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

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

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17.06 COMPENSATION. The salary of each Council member is twenty dollars (\$20.00) for each meeting of the Council attended, not to exceed \$700.00 per year. Members are reimbursed for actual expenses, e.g., mileage, registration fees, etc. incurred in the performance of their duties.

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

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CHAPTER 18

CITY ADMINISTRATOR/CLERK

18.01 Appointment and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Recording and Publication of Meeting Minutes	18.10 Issue Licenses and Permits
18.04 Recording Measures Considered	18.11 Notify Appointees
18.05 Publication	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certify Measures	18.14 City Funds
	18.15 Deputy Clerk

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

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

18.02 POWERS AND DUTIES.

1. General. The City Administrator/Clerk, or in the Administrator/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.
2. Supervisory. The City Administrator/Clerk has immediate supervisory responsibility for those subordinate employees shown on the City's organizational chart.

18.03 RECORDING AND PUBLICATION OF MEETING MINUTES. The City Administrator/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

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summary of all receipts and shall show the gross amount of the claim.

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

18.04 RECORDING MEASURES CONSIDERED. The City Administrator/Clerk shall promptly record each measure considered by the Council, with a statement 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])

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

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

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

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

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

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

(Code of Iowa, Sec. 380.7[3])

18.07 CERTIFY MEASURES. The City Administrator/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 City Administrator/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[4])

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 Administrator/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 [4])

5. Filing of Communications. Keep and file all communications and petitions directed to the Council or to the City generally. The City Administrator/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 City Administrator/Clerk shall attend meetings of committees, boards and commissions. The City Administrator/Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

18.10 ISSUE LICENSES AND PERMITS. The City Administrator/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 City Administrator/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 City Administrator/Clerk shall perform the following duties relating to elections and nominations:

1. In the event of a change in the method of nomination process used by the City, certify to the Commissioner of Elections the type of nomination

process to be used by the City no later than seventy-seven (77) days before the date of the regular City election.

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

18.13 CITY SEAL. The City seal is in the custody of the City Administrator/Clerk and shall be attached by the City Administrator/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 "INCORPORATED CITY OF FAYETTE, IOWA."

18.14 CITY FUNDS. The City Administrator/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 of Fund. Keep the record of each fund separate.

3. 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.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Clerk/Administrator's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

18.15 DEPUTY CLERK. The Deputy Clerk is appointed by the Council and is paid such compensation as specified annually by resolution of the Council. The Deputy Clerk shall be able to perform the duties of the City Administrator/Clerk, shall perform such other duties as determined by the City Administrator/Clerk, or as specified by the Council by motion, resolution or ordinance.

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CHAPTER 19

CITY TREASURER

19.01 Appointment

19.03 Duties of Treasurer

19.02 Compensation

19.01 APPOINTMENT. The Mayor shall appoint, subject to Council approval, a City Treasurer to serve for a term of two (2) years.

19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

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

1. Reconciliation. Reconcile the City Administrator/Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation

20.05 Review and Comment

20.02 Attorney for City

20.06 Provide Legal Opinion

20.03 Power of Attorney

20.07 Attendance at Council Meetings

20.04 Ordinance Preparation

20.08 Prepare Documents

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

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

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

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

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

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

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

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

submitted to or coming under the City Attorney's notice.

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall, upon request of the Council, give advice or a written legal opinion on contracts involving the City and upon all questions of law relating to City matters submitted by the Council, any board or the head of any City department.

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

21.01 Public Library	21.07 Nonresident Use
21.02 Library Trustees	21.08 Expenditures
21.03 Qualifications of Trustees	21.09 Annual Report
21.04 Organization of the Board	21.10 Injury to Books or Property
21.05 Powers and Duties	21.11 Theft
21.06 Contracting with Other Libraries	21.12 Notice Posted

21.01 PUBLIC LIBRARY. The public library for the City is known as the Fayette Community Library. It is referred to in this chapter as the Library.

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee

shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from three (3) consecutive regular meetings of the Board, except in the case of personal illness. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefore unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

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

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

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

21.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary. The check-writing officer is the City Administrator/ Clerk.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

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(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission

22.04 Compensation

22.02 Term of Office

22.05 Powers

22.03 Vacancies

22.06 Duties

22.01 PLANNING AND ZONING COMMISSION. There is hereby created a City Planning and Zoning Commission, hereinafter referred to as the Commission, composed of five (5) residents of the City who are qualified by knowledge and experience to act in matters pertaining to the development of City Planning and Zoning, none of whom shall hold any elective position in the City. Such members shall be nominated by the Mayor or Council and appointed by the Council.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 TERM OF OFFICE. The term of office of each member of the Commission shall be five (5) years. The terms of not more than one member will expire in any one year.

(Code of Iowa, Sec. 392.1)

22.03 VACANCIES. 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)

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

(Code of Iowa, Sec. 392.1)

22.05 POWERS. The Commission shall have and possess the following powers and such other powers as may be expressly conferred upon it by law:

1. To make such surveys, studies, maps, plans or plats of the whole or any portion of the City which in the opinion of the Commission bears relation to a comprehensive plan.
2. To prepare a comprehensive plan regarding the height, number of stories and size of buildings and other structures; the size of yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes.
3. To recommend to the Council, from time to time as conditions require, amendments, supplements, changes or modifications in the comprehensive plan.
4. To study the zoning questions in the City and to draw and recommend boundaries for such zoning districts as the Commission may deem appropriate and to consider and suggest ordinances to achieve most efficiently the goals for City development as presented in the comprehensive plan.
5. To recommend to the Council, from time to time as conditions require, amendments, supplements, changes or modifications in the zoning ordinances as adopted by the Council.

22.06 DUTIES. The Commission shall have and perform the following duties and such other duties as may be expressly imposed upon it by law:

1. To prepare a preliminary report of its study of the zoning questions in the City, together with a suggested zoning ordinance for the restriction and regulation of the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied by any structure, the size of yards, courts and other open spaces, the density of population and the location and use of the buildings, structures and land for trade, industry, residence or other purposes. Said report and ordinance shall contain descriptions and delineations of the boundaries of zoning districts as proposed by the Commission, and appropriate regulations and restrictions to be enforced therein.
2. Following preparation of the preliminary report and proposed ordinance, the Commission shall hold a public hearing thereon, public notice of which hearing shall

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be published in a newspaper not more than 30 or less than 15 days prior thereto, and such notice shall state the place where copies of the proposed ordinances are available for examination.

3. Within 30 days after the final adjournment of its public hearings, the Commission shall make a final report and submit the proposed ordinance to the Council, which, following its own public hearings upon the ordinance, may enact such proposed ordinance with or without change.

4. The Commission shall meet at such times as may be determined by it, and special meetings of the Commission may be held on call of the Chairperson. The City Administrator/Clerk shall act as Secretary of the Commission, unless provisions to the contrary are made by the Council.

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CHAPTER 23

PARK BOARD

23.01 Park Board Created

23.04 Reports

23.02 Board Organization

23.05 Rules

23.03 Duties of the Board

23.06 Penalties

23.01 PARK BOARD CREATED. A Park Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for the recreational use of the residents of the City.

23.02 BOARD ORGANIZATION. The Board shall consist of five (5) members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping three-year terms. Members shall serve not more than two consecutive terms followed by a one-year absence from the Board. The Mayor shall designate the terms of the first appointed members. The Board shall choose its Chairperson and Secretary annually. Members shall serve without compensation, but may receive reimbursement for their actual expenses. Vacancies shall be filled in the same manner as the original appointment. The Board shall determine the rules of its own proceedings.

23.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for park operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for park purposes. The Board shall control the expenditure of all money appropriated for the operation and maintenance of the park system in the annual City budget and for those funds received in the form of gifts or bequests. Custody of all moneys, as with all other municipal administrative agencies, shall remain with the City Administrator/Clerk, who is the check-writing officer.

23.04 REPORTS. The Board shall make written reports to the Council of its activities at least annually immediately after the close of the fiscal year. Its revenues and expenditures shall be reported monthly by the City Administrator/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 Administrator/Clerk's report to the Council.

23.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

23.06 PENALTIES. Violation of a Board rule which has been approved by the Council may be cause for denial of use of a facility, but such denial which extends more than one day may be appealed to the Board first, then to the Council for hearing. The violation may be cited as a municipal infraction if a serious offense.

CHAPTER 24

RECREATION BOARD

24.01 Recreation Board Created

24.04 Reports

24.02 Board Organization

24.05 Rules

24.03 Duties of the Board

24.06 Penalties

24.01 RECREATION BOARD CREATED. A Recreation Board is hereby created to advise the Council on the needed facilities to provide tennis courts, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs for the leisure time of the City's residents of all ages.

24.02 BOARD ORGANIZATION. The Board shall consist of five (5) members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping three-year terms. The Board shall choose its Chairperson and Vice Chairperson annually. Members shall serve without compensation, but may receive reimbursement for their actual expenses. Vacancies shall be filled in the same manner as the original appointment.

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

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

24.05 RULES. The Board has the power to make rules and regulations for the use of recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

24.06 PENALTIES. Violation of a Board rule which has been approved by the Council and adopted by ordinance may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one day may be appealed to the Council for hearing. The violation may be cited as a municipal infraction if a serious offense.

CHAPTER 25

PUBLIC UTILITIES BOARD

25.01 Definitions

25.05 Reports

25.02 Board Created

25.06 Rules and Regulations

25.03 Board Organization

25.07 Excepted Powers

25.04 Duties

25.08 Rates and Penalties

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

1. "Utilities" means the water and waste water enterprises operated or provided by the City for the welfare of its residents.
2. "Utilities Board" means the Board established to make recommendations for the operation of the combined utilities of the City.

25.02 BOARD CREATED. A Public Utilities Board is hereby created to advise the Council in matters relating to the municipal water and waste water enterprises operated or provided by the City.

25.03 BOARD ORGANIZATION.

1. Composition. The Board shall consist of five (5) members. Each member shall be a resident of the City. The members shall be appointed by the Mayor with the approval of the Council. The members shall serve staggered six-year terms.
2. Terms and Officers. The Mayor shall designate the terms of the first appointed members. The Board shall choose its Chairperson annually.
3. Compensation. Members shall serve without compensation, but may receive their actual expenses incurred in the performance of their duties.
4. Meetings. The Board will meet as required.

5. Vacancies. A Board member appointed to fill a vacancy occurring by reason other than the expiration of a term is appointed for the balance of the unexpired term.

6. Eligibility. A public officer or salaried employee of the City may not serve as an official member on the Utilities Board. However, the Mayor, City Administrator/Clerk and Public Works Director will serve as *ex officio* non-voting members of the Board. The City Administrator/
Clerk will also serve as Recorder.

25.04 DUTIES The City Administrator/Clerk shall make an annual water report, as required for the FmHA Bond and G.E. Capital Bond, and a fiscal year annual report.

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CHAPTER 26

CITY TREE BOARD

26.01 Definitions

26.05 Duties and Responsibilities

26.02 Creation and Establishment

26.06 Operation

26.03 Term of Office

26.07 Unlawful Acts

26.04 Compensation

26.08 Review by Council

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

1. "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names or to which the public has free access as a park.
2. "Street trees" means trees, shrubs, bushes and all other woody vegetation on land lying between the property lines on either side of all streets, avenues or ways within the City.

26.02 CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the City, which shall consist of five (5) members, citizens and residents of the City, who shall be appointed by the Mayor with the approval of the Council. The Public Works Director shall be an *ex officio* member of the Board but shall have no vote.

26.03 TERM OF OFFICE. The full term of office for members of the City Tree Board is three (3) years. The terms are staggered, with the initial appointment of one member to a full term, two members to a two-year term and two members to a one-year term. In the event that a vacancy occurs on the Board, the successor shall be appointed for the unexpired portion of the term.

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

26.05 DUTIES AND RESPONSIBILITIES. It is the responsibility of the Board to study, investigate, counsel and develop and/or update the City ordinances which apply to trees. They shall also develop and update a written plan for the care, preservation, pruning,

planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Council and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City. The Board, when requested by the Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. The Board shall annually prepare and submit to the Council a budget, detailing proposed income and expenses for Council approval.

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

26.07 UNLAWFUL ACTS. It is unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees or park trees, as authorized in this chapter. It is also unlawful for anyone to remove, damage, destroy or otherwise willfully injure any street tree or park tree. The Public Works Director shall file criminal charges, at the request of the Board, for any such unlawful acts.

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

CHAPTER 27

ZONING BOARD OF ADJUSTMENT

27.01 Creation and Membership

27.05 Powers and Duties

27.02 Proceedings

27.06 Decisions

27.03 Hearings, Appeals, Notice

27.07 Appeals from Board of Adjustment

27.04 Stay of Proceedings

27.01 CREATION AND MEMBERSHIP. A Board of Adjustment is hereby established. The Board shall consist of five (5) members appointed by the Council for staggered terms of five years. Members of the Board of Adjustment may be removed from office by the Council upon written charges reflecting unfitness for office and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member affected.

27.02 PROCEEDINGS. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of the City's Zoning Regulations contained in Chapter 165 of this Code of Ordinances. 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 of Adjustment shall keep minutes of its proceeding 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 City Administrator/Clerk.

27.03 HEARINGS, APPEALS, NOTICE.

1. Appeals to the Board of Adjustment concerning interpretation or administration of the Zoning Regulations may be taken by any person aggrieved or by any officer or bureau of the City affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the

action appealed from was taken.

2. The Board of Adjustment shall fix a reasonable time for hearing on the 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 by attorney.

3. A fee in an amount set by annual resolution shall be paid to the administrative official at the time the notice of appeal is filed, which the administrative official shall forthwith pay over to the credit of the General Revenue Fund of the City.

27.04 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal is filed with such official that by reason of facts stated in the certificate, a stay would, in the opinion of the administrative official, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the administrative official from whom the appeal is taken and on due cause shown.

27.05 POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. **Administrative Review.** To hear and decide appeals where it is alleged there is error in any order, requirements, decisions or determination made by the administrative official in the enforcement of the Zoning Regulations.

2. **Special Exceptions.** To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of the Zoning Regulations and 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 the Zoning Regulations or to deny special exceptions when not in harmony with the purpose and intent of such regulations. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section in the Zoning Regulations under which the special exception is sought and stating the grounds on which it is requested.

B. Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the City.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the Zoning Regulations and this chapter to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Regulations. 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 the Zoning Regulations. The Board of Adjustment 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 to complete, or both, such action within the time limit set shall void the special exception.

3. Variances. To authorize upon appeal in specific cases such variances from the terms of the Zoning Regulations as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of the Zoning Regulations would result in unnecessary hardship. A variance from the terms of the Zoning Regulations shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

(2) That literal interpretation of the provisions of the Zoning Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms thereof.

(3) That the special conditions and circumstances do not result from the actions of the applicant.

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Regulations to other land, 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 lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as provided in subsection 27.05(2)(B) of this chapter.

C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

D. The Board of Adjustment shall make findings that the requirements of subsection A of this subsection have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and

that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of the Zoning Regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Zoning Regulations. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of the Zoning Regulations in the district involved, or any use expressly or by implication prohibited by the terms of the Zoning Regulations in such district.

27.06 DECISIONS. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Code of Ordinances, 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 it believes proper, and to that end shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Regulations or this chapter or to effect any variation in application of the same.

27.07 APPEALS FROM THE BOARD OF ADJUSTMENT. Any persons or any taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of

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Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State, and particularly Chapter 414 of the Code of Iowa.

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established	30.06 Peace Officers Appointed
30.02 Organization	30.07 Police Chief: Duties
30.03 Peace Officer Qualifications	30.08 Departmental Rules
30.04 Required Training	30.09 Summoning Aid
30.05 Compensation	30.10 Taking Weapons

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

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

(Code of Iowa, Sec. 80B.11 [2])

(IAC, 501-3 and 501-8)

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

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30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint the Police Chief and the Mayor shall select, subject to the approval of Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the police chief by law or ordinance.
 2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
 3. Writs. Execute and return all writs and other processes directed to the Police Chief.
 4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
- (Code of Iowa, Sec. 321.266)*
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
 6. Assist Officials. When requested, provide aid to all State, County and local officials, 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, 804.17)

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

(Code of Iowa, 804.18)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.08 Obedience to Fire Chief
35.02 Organization	35.09 Constitution
35.03 Approved by Council	35.10 Accidental Injury Insurance
35.04 Training	35.11 Liability Insurance
35.05 Compensation	35.12 Calls Outside City
35.06 Election of Officers	35.13 Mutual Aid
35.07 Fire Chief: Duties	35.14 Authority to Cite Violations

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

35.05 COMPENSATION. Members of the department shall be designated by rank and

receive such compensation as shall be determined by resolution of the Council.

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of fifty

dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

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be made and is reasonably necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.41)

CHAPTER 36

AMBULANCE SERVICE

36.01 Purpose

36.06 Enforcement

36.02 Ambulance and Emergency Service

36.07 Compensation

36.03 Membership

36.08 Annual Report

36.04 Fees

36.09 Audit

36.05 Payment

36.01 PURPOSE. The purpose of this chapter is to establish an ambulance and emergency service and to provide for the fixing by resolution of fees to be charged users of said service, to provide a method of enforcing the collection of such fees and to provide for the governance of that service.

36.02 AMBULANCE AND EMERGENCY SERVICE. A department is hereby created and shall be called the Fayette Ambulance Service, hereinafter referred to as the Unit, which shall have the authority to provide ambulance and emergency service in and around an area surrounding the City. It shall have authority to equip an ambulance and rescue unit in the manner agreed upon by the Council. The Unit shall be operated in accordance with standards, rules and regulations set forth in the constitution and bylaws adopted by the Unit and approved by the Council.

36.03 MEMBERSHIP. The Unit shall consist of volunteer persons who are at least eighteen (18) years of age. Said volunteers may adopt such rules and regulations, and elect such officers as they deem advisable and consistent with their constitution and bylaws and not inconsistent with the laws of the State.

36.04 FEES. Ambulance service shall be furnished at the rates which shall be from time to time fixed by the Unit and approved by the Council by resolution and published in the local newspaper.

36.05 PAYMENT. All ambulance fees and charges are due and payable upon presentation of a statement for said fees and charges to either the user or representative of the user and

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shall be paid to the City Administrator/Clerk.

36.06 ENFORCEMENT. After giving reasonable notice, the City may cause a suit to be brought for the collection of any fees or charges for services provided in good faith and not contested by the user in good faith.

36.07 COMPENSATION. The compensation of the elected and appointed officers of the Unit is determined by the Council and set forth in the constitution and bylaws of

the Unit. The personnel involved in an emergency or ambulance call shall be allowed compensation on a per-call basis as fixed by the Unit and approved by the Council by resolution.

36.08 ANNUAL REPORT. The Unit shall make an annual report in writing to the Council the first month following the end of the fiscal year. It shall also file such other reports as from time to time may be requested by the Council.

36.09 AUDIT. The Unit shall submit its financial records annually to a person designated by the Council for the purpose of the audit.

CHAPTER 37

HAZARDOUS SUBSTANCE SPILLS

37.01 Purpose

37.05 Notifications

37.02 Definitions

37.06 Police Authority

37.03 Cleanup Required

37.07 Liability

37.04 Liability for Cleanup Costs

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

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

1. "Cleanup" means the removal of the hazardous wastes or substances to a place where the waste or substance will not cause any danger to persons or the environment, in accordance with State rules therefore or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to a general good appearance without noticeable odor as far as practicable.
2. "Hazardous condition" means the same as set out in Section 455B.381(4), Code of Iowa.
3. "Hazardous substance" means any substance as defined in Section 455B.381(5), Code of Iowa.
4. "Hazardous waste" means those wastes which are included by the definition in Section 455.130, Code of Iowa.
5. "Responsible person" means the party, whether the owner, agent, lessor or tenant, in charge of the hazardous substance or hazardous waste being stored, processed or handled, or the owner or bailee transporting hazardous wastes or

substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any person or to the environment.

6. "Treatment" means a method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amenable for recovery, amenable for storage or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it non-hazardous.

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

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

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

37.05 NOTIFICATIONS.

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

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

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

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

37.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 37.02[4].

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.05 Failure to Disperse

40.02 Harassment

40.06 Unnecessary Noise

40.03 Disorderly Conduct

40.07 Automobile Noise

40.04 Unlawful Assembly

40.08 Penalty

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.

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(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

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

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

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 UNNECESSARY NOISE. It is unlawful for any person to intentionally create any sound which:

1. A reasonable person of ordinary sensibilities would find to be disturbing to public peace, quiet or good order;
2. Endangers health, safety or welfare of another person; or
3. Injures personal or real property.

40.07 AUTOMOBILE NOISE. It is unlawful for any person to intentionally disturb the public peace, quiet or good order by use of a motor vehicle. Disturbing uses include but are not limited to:

1. Unnecessary racing or gunning of the motor;
2. Unnecessary honking of the horn;
3. Playing loud music within or by means of the automobile.

40.08 PENALTY. A person who violates any portion of this chapter commits a simple misdemeanor. Municipal infraction citations may issue, in lieu of criminal citations, for violations of sections 40.06 and 40.07. Municipal infraction penalty is fifty dollars (\$50.00) per instance of conduct cited. If a municipal infraction citation is not paid within 21 calendar days from the date of issuance, then the offense will be forwarded to the Fayette County Clerk of Court as a criminal citation.

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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 official who enters/or uses the information to ascertain the person's identity, past criminal history, traffic record or Wanted status, or provides false information regarding a criminal investigation.

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.08 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.

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

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

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

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

41.11 FIREWORKS PERMIT. It is unlawful for any person to use or explode any fireworks as defined in Section 727.2 of the Code of Iowa; 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:

1. Personal Injury: - \$250,000.00 per person.
2. Property Damage: - \$50,000.00.
3. Total Exposure: - \$1,000,000.00.

(Code of Iowa, Sec. 727.2)

41.12 INTERFERENCE/OBSTRUCTION. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under Chapter 147A, or fire fighter, whether paid or volunteer, in the performance of the lawful duty or authority of that officer, emergency medical care provider under Chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or

execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor.

(Code of Iowa, Sec. 719.1 (SF 189.21, 78GA-1)

41.13 PENALTY. A person who violates any portion of this chapter commits a simple misdemeanor. Municipal infraction citations may issue, in lieu of criminal citations, for violations of sections 41.08, 41.09 and 41.10. Municipal infraction penalty is fifty dollars (\$50) per instance of conduct cited. If a municipal infraction citation is not paid within 21 calendar days from the date of issuance, then the offense will be forwarded to the Fayette County Clerk of Court as a criminal citation.

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.04 Unauthorized Entry

42.02 Criminal Mischief

42.05 Fraud

42.03 Defacing Proclamations or Notices

42.06 Theft

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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CHAPTER 44

DRUG PARAPHERNALIA

44.01 DEFINITIONS

A. "Drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a "controlled substance" (as defined in Iowa Code Chapter 124) except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following.

1. Manufacture a controlled substance;
2. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance;
3. Test the strength, effectiveness, or purity of a controlled substance; and
4. Enhance the effect of a controlled substance.

"Drug paraphernalia" does not include hypodermic needles or syringes if manufactured , delivered or sold or possessed for lawful purposes.

B. "Controlled substance" means a drug, substance or immediate precursor listed in any of Schedules I through V of division II of Iowa Code Chapter 124

44.02 OFFENSE It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell or possess drug paraphernalia within the City of Fayette

44.03 PENALTY A person who violates this section commits a simple misdemeanor. A civil penalty of seventy-five dollars (\$75.00) may be imposed in lieu of a criminal citation and if not paid within 21 calendar days from date of issuance, the offense will be forwarded to the Fayette County Clerk of Court as a criminal offense.

CHAPTER 45**ALCOHOL CONSUMPTION AND INTOXICATION**

45.01 Persons Under Legal Age

45.03 Open Container in Public Places

45.02 Public Consumption or Intoxication

45.04 Penalty

45.01 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

2. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in that person's possession or control.

3. Subsections 1 and 2 shall not apply in the case of alcoholic liquor, wine or beer given or dispensed to a person under the 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)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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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 232.10 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 Code of Iowa.
 - D. "School" means 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 ay public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.
3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safely 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.

45.03 OPEN CONTAINER IN PUBLIC PLACES. It is unlawful for any person to possess an open container of liquor, beer, wine or other alcoholic beverage upon the public streets or highways of the City. *(See also Open Container of Alcoholic Beverage, Wine or Beer on Streets and Highways, Section 62.07 of this Code of Ordinances.)*

45.04 PENALTY. A civil penalty of \$50 may be imposed in lieu of a criminal citation for violating any part of this chapter. If civil penalty is assessed and not paid within 21 calendar days from date of issuance, the offense will be forwarded to the Fayette County Clerk of Court as a criminal offense using established state fine amounts.

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CHAPTER 46

MINORS

46.01 Curfew

46.03 Contributing to Delinquency

46.02 Cigarettes and Tobacco

46.04 Penalty

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

1. Definition. The term “minor” means in this section, any unmarried person below the age of eighteen (18) years.
2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of twelve o’clock (12:00) midnight and six o’clock (6:00) a.m. of the following day.
3. Exceptions. The restriction provided by subsection 46.01(2) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over eighteen (18) years of age, nor shall the restriction apply to any minor who is traveling between his or her home or place of residence and the place where any approved employment, church, municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 46.01(2), except as otherwise provided in subsection 46.01(3).

(Code of Iowa, Sec. 613.16)

5. Responsibility of Business Establishments. It is unlawful for any persons operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by subsection 46.01(2) except as otherwise provided in subsection 46.01(3).

6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 46.01(2) and (3). Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

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

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

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

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

46.04 Penalty. A civil penalty of \$50 may be imposed in lieu of a criminal citation for violating any part of this chapter. If a civil penalty is assessed and not paid within 21 calendar days from date of issuance, the offense will be forwarded to the Fayette County Clerk of Court as a criminal offense.

CHAPTER 47

PARK REGULATIONS

47.01 Purpose

47.05 Parks Closed

47.02 Use of Drives Required

47.06 Camping

47.03 Fires

47.07 Noise

47.04 Littering

47.08 Penalty

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 nine-thirty o'clock (9:30) p.m. and seven-thirty o'clock (7:30) a.m., except that the Park Commission has the authority to issue permits to campers overnight and to groups for use of park facilities beyond 9:30 p.m. or prior to 7:30 a.m. and such group permits shall specify the time when such group shall leave the park and the Commission shall obtain the name and signature of the person applying for the group permit who shall certify that said person will be responsible for damage such group may do to park property.

47.06 CAMPING.

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1. No person shall camp in any portion of a park except in portions prescribed or designated by the Park Commission.

2. The Park Commission may establish such fees for camping and other special privileges as it deems appropriate and reasonable.

3. Any person who camps in any park shall register his or her name and address with a park commissioner and advise such official when the camp is vacated.

4. The Park Commission may refuse camping privileges or rescind any and all camping privileges for cause.

47.07 NOISE. No person shall make such excessive noise within any park so as to cause a disturbance to others using the park.

47.08 Penalty. A civil penalty of \$50 may be imposed in lieu of a criminal citation for violating any part of this chapter. If a civil penalty is assessed and not paid within 21 calendar days from date of issuance, the offense will be forwarded to the Fayette County Clerk of Court as a criminal offense.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance	50.08 Request for Hearing
50.02 Nuisances Enumerated	50.09 Abatement in Emergency
50.03 Other Conditions	50.10 Abatement by City
50.04 Nuisances Prohibited	50.11 Collection of Costs
50.05 Nuisance Abatement	50.12 Installment Payment of Cost of Abatement
50.06 Notice to Abate: Contents	50.13 Failure to Abate - Penalty
50.07 Method of Service	

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

(Code of Iowa, Sec. 657.1)

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

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, 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. In addition, any substance left unattended, which by its nature and properties causes the undue attraction of rodents, stray animals and other varmints to the substance's location.

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

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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 as to render dangerous the use thereof. **(See also Section 62.09)**

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

7. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees. **(See also Chapter 151)**

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

8. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**

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

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

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

10. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

(Code of Iowa, 657.2[12])

11. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 151)**

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

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. Trailers. Any trailer designed for the transportation of livestock or property which is not being used for the purpose for which it was intended and is being left unattended within a zoned residential area for longer than ninety (90) days. Also, any vehicle or trailer which is left unattended with junk as defined in this section piled inside for longer than five (5) days.

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

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

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice. Once a Notice to Abate a Nuisance has been issued, that abatement notice shall remain in effect for 180 days of the issuance date for the same or similar nuisance articulated in the notice and shall carry the same penalties had the nuisance been re-issued for the same or similar violations.

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement as determined by the Chief of Police or Mayor. Time frame shall not exceed forty-five days (45) without City Council approval.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.07 METHOD OF SERVICE. The notice may be in the form of an Ordinance and served by personal service of a Sworn Law Enforcement Official or sent by certified mail to the property owner.

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the City Administrator/Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as

ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

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

50.11 COLLECTION OF COSTS. The City Administrator/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 City Administrator/Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

In addition to criminal citation for failing to abate, a municipal infraction citation also may issue. Municipal infraction penalty is minimum two hundred dollars (\$200.00), with an additional one hundred dollars (\$100.00) per day that the nuisance continues to exist, accruing until such time as the nuisance is abated or until a maximum penalty of \$1000.00 is reached. Any and all unpaid amounts shall result in a lien on the property under Iowa Code sections 364.12 and .13A, until such time as the balance is paid in full and in accord with the Fayette Code of Ordinances.

EDITOR'S NOTE

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.04 Exceptions

51.02 Junk and Junk Vehicles Prohibited

51.05 Notice to Abate

51.03 Junk and Junk Vehicles a Nuisance

51.06 Penalty

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

1. "Junk" means all worn out or discarded material which cannot be returned to some use, or articles which have outlived their usefulness in their original form and are commonly gathered up and sold for conversion into products of either the same or a different kind.

Any property item may be found to be "junk" if it is stored or placed in such circumstances as would lead a reasonable observer to conclude that the property is "abandoned", or that its owner lacks care or concern to preserve it or to use it in a normal fashion.

"Junk" includes but is not limited to:

- A. Old or scrap copper, brass, lead, or any other non-ferrous metal;
- B. Iron, steel or other old or scrap ferrous materials;
- C. Dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances;
- D. Old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood;
- E. Old or discarded glass, tinware, plastic or old or discarded household goods or hardware.

Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

2. "Junk vehicle" means any vehicle which cannot be operated legally on the streets of this state in compliance with the Code of Iowa, Section 321, and which has remained in an inoperable condition for a minimum of ten (10) days after notice of violation of this Section. It is the responsibility of the property owner to demonstrate, upon request of the enforcement officer, that the vehicle can move backward and forward on its own power.

A vehicle may be found to be in violation of this chapter if it has any of (but is not limited to) the following characteristics:

- A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other broken glass.
- B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, running board, steering wheel or trunk lid.
- 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. Combustible or Flammable Fuel. Junk vehicle as defined in section 51.01(2) which is inoperable and contains combustible or flammable fuel, or any trailer left unattended for longer than six months which contains combustible or flammable fuels inside it.
- E. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

51.02 JUNK AND JUNK VEHICLES PROHIBITED.

1. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicles.

2. It shall be unlawful for any person to place or leave outside any building, dwelling, any dilapidated furniture, appliance, machinery, equipment, building material or other item which is in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition, and which is not completely enclosed within a building or dwelling. Any such items or items which remain on the property of the occupant for a period of ten (10) days after notice of this Section shall be presumed to be abandoned and subject to being removed from the property by the City without further notice. This does not preclude the Enforcement Officer from granting an extension to abate the violation after giving consideration to the totality of the circumstances, including but not limited to, the weather, feasibility of abatement within ten (10) days of the notice, any past dealings with the violator, and the type of items involved in the violation. This shall not apply to authorized junk dealers or establishments engaged in the repair, rebuilding, reconditioning or salvaging of equipment operating in an area of the city which is zoned to permit them.

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

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

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

1. Structure. A garage or other enclosed structure; or

2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

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

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

51.06 FAILURE TO ABATE - PENALTY. In addition to criminal citation for failing to abate, a municipal infraction citation also may issue. Municipal infraction penalty is minimum two hundred dollars (\$200.00), with an additional one hundred dollars (\$100.00) per day that the nuisance continues to exist, accruing until such time as the nuisance is abated or until a maximum penalty of \$1000.00 is reached. Any and all unpaid amounts shall result in a lien on the property under Iowa Code sections 364.12 and .13A, until such time as the balance is paid in full and in accord with the Fayette Code of Ordinances.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Rabies Vaccination
55.02 Animal Neglect	55.12 Owner's Duty
55.03 Livestock Neglect	55.13 Confinement
55.04 Abandonment of Cats and Dogs	55.14 At Large: Impoundment
55.05 Livestock	55.15 Disposition of Animals
55.06 At Large Prohibited	55.16 Impounding Costs
55.07 Damage or Interference	55.17 Abatement Procedures Pertaining to Vicious and Dangerous Animals
55.08 Annoyance or Disturbance	55.18 Removal of Dog/Cat Waste
55.09 Vicious Dogs	55.19 Penalty
55.10 Dangerous Animals	

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

1. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

3. "Dangerous animal" means any animal which attacks or injures any person or domestic animal or which constitutes a physical threat to any person or domestic animal; provided, however, that a dog assisting a peace officer engaged in law enforcement duties is exempt from the provisions of this chapter concerning dangerous animals.

4. "Guard dog" means any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler.

5. “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)

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

7. “Vicious dog” means any dog which, unprovoked and in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise to endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property; or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for fighting.

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. Nor shall any owner or possessor tether a dog or cat to a tree, post or other object unless the tethered animal has at least 50% shade along with adequate food, water and shelter, and no dog or cat shall be left outside without adequate shelter from the elements.

(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.

1. A dog that is properly trained and controlled by use of an electronic collar/leash shall not be deemed "At large" as long as the owner or possessor of the dog can demonstrate the dog is in fact under control by the use of the electronic collar.

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 DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City.

55.10 DANGEROUS ANIMALS. It is unlawful for any person to harbor or keep a dangerous animal within the City, except as provided in this section, and any such person shall immediately surrender any such animal to the Police Chief or designee. Violation of this section will constitute a simple misdemeanor and shall be punished accordingly.

1. Exception - Keeping Dangerous Animals.

A. Every person keeping, sheltering or harboring a dangerous animal shall report such fact in writing to the City Administrator/Clerk together with the following information:

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- (1) The species name of each animal;
 - (2) The number of such animals of each species kept on the premises;
 - (3) A physical description of such animal, including any pet names to which it might respond;
 - (4) The location of such animal within the City, including the location of the cage or place of confinement upon or in said premises wherein the animal is kept.
 - (5) In case of poisonous animals, the location of the nearest source of anti-venom for that species.
- B. Every person keeping, sheltering or harboring a dangerous animal shall, at all times, keep such animal securely confined within a cage or enclosure.
- C. Every person keeping, sheltering or harboring a dangerous poisonous animal shall be required to keep ten (10) doses of anti-venom on hand and current at all times.
- D. No person keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way or other property of another, except when such animal is being transported while caged or confined.
- E. It is the owner's responsibility to notify the Police Department immediately in the event that a dangerous animal has escaped and is at large.
- F. In the event that a dangerous animal is found at large and unattended upon any property described in subsection D above, thereby creating a hazard to life or property, such animal may, at the discretion of the Police Chief or designee, be destroyed if it cannot be safely confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

G. In the event that the Police Chief determines that a dangerous animal is being kept, sheltered or harbored by any person in violation of the provisions of this section, the Police Chief may bring such person before the proper court or may order abatement procedures to begin at once at specified in Section 55.17, or do both, at the discretion of the Police Chief.

2. Exception - Guard Dogs. The prohibition contained in this section does not apply to keeping of guard dogs. However, guard dogs must be kept within a structure or a fenced enclosure at all times. Any guard dog found at large may be processed as a dangerous animal pursuant to the provisions of this section. Any premises guarded by a guard dog shall be prominently posted with a sign containing the words "GUARD DOG" or words of similar import, and the owner of such premises shall inform the Police Department or City Administrator/Clerk, in writing, that a guard dog is on duty at the premises. It is the owner's responsibility to notify the Police Department immediately when a guard dog has escaped and is running at large.

55.11 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)

55.12 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)

55.13 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it 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 two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

55.14 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made there-under. Impoundment may occur at the Police Department in an approved kennel, or at the discretion of the Chief of Police, the animal may be taken to the nearest Veterinary Clinic for impoundment.

55.15 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be given in not less than two days to the owner, if known. 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 does not redeem the animal within seven (7) days of the date of notice, or if the owner cannot be located within seven (7) days, the animal may be humanely destroyed or otherwise disposed of in accordance with law.

(Code of Iowa, Sec. 351.37, 351.41)

55.16 IMPOUNDING COSTS. The owner of an animal which has been impounded pursuant to this chapter shall be charged for all costs incurred in connection with the impoundment of the animal, including but not limited to a pickup and first day fee and a subsequent daily boarding fee. The owner shall be required to pay all fees before any animal is released to such owner. Impounding costs shall be set by resolution and reviewed annually by the Council.

(Code of Iowa, Sec. 351.37)

55.17 ABATEMENT PROCEDURES PERTAINING TO VICIOUS AND DANGEROUS ANIMALS. In the event that a law enforcement officer has probably cause to believe that a dog is vicious or a dangerous animal is in violation of this chapter, the Police Chief or designee shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious or the dangerous animal is in violation and constitutes a hazard. The Police Chief shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the vicious dog or dangerous animal that a hearing will be held at which time said owner or keeper may have the opportunity to present evidence why the dog or dangerous animal shall not be declared a hazard. The hearing shall be held promptly, within no less than five (5) or more than ten (10) days after the service of notice upon the owner or keeper of the dog or dangerous animal. The hearing shall be informal and shall be open to the public. After the hearing, the owner or keeper of the dog or dangerous animal shall be notified in writing of the determination. If a determination is made that the dog is vicious or the dangerous animal is a hazard, the owner or keeper shall comply with the

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provisions of this chapter in accordance with a time schedule established by the Police Chief, but in no case more than thirty (30) days subsequent to the date of determination. If the owner or keeper of the dog contests the determination, he or she may bring a petition in the district court within the judicial district where the dog or dangerous animal is kept, praying that the court conduct its own hearing on whether or not the dog is declared vicious or the dangerous animal found to be in violation and a threat to the public safety. After service of notice upon the Police Chief, the court shall conduct a hearing *do novo* and make its determination as to alleged viciousness or endangerment. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be vicious or the dangerous animal to be a threat to the public safety, the court may establish a time schedule to insure compliance with this chapter. The court may decide all issues for or against the owner or keeper of the dog or dangerous animal regardless of the fact that said owner or keeper fails to appear at said hearing. The determination of the district court shall be final and conclusive upon all parties thereto. However, the law enforcement officer shall have the right to declare a dog vicious or an animal dangerous for any subsequent actions of the dog or animal. In the event that the law enforcement officer has probable cause to believe that the dog in question is vicious or the animal is dangerous, and poses a threat of serious harm to human beings or other domestic animals, the law enforcement officer may seize and impound the dog or dangerous animal pending the aforesaid hearing. The owner or keeper of the dog or dangerous animal shall be liable to the City when the dog or dangerous animal is impounded for costs and expenses of keeping such dog or dangerous animal.

55.18 REMOVAL OF DOG/CAT WASTE. No owner, possessor, or person in charge of a dog or cat shall fail to clean up or immediately remove any solid or semi-solid excrement or droppings deposited by such dog or cat on any public or private property not owned or in the control of that owner, possessor or person in charge of such dog or cat.

55.19 PENALTY. For subsections 55.06, 55.07, 55.08, 55.10 and 55.18, a civil penalty of fifty dollars (\$50.00) may be imposed in lieu of a criminal citation. If a civil penalty is assessed and not paid within 21 calendar days from the date of issuance, the offense will be forwarded to the Fayette County Clerk of Court as a criminal offense.

Impound fee shall be \$35 per day starting on day the animal was impounded and continuing until animal is returned to owner.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.05 Traffic Accidents: Reports
60.02 Definitions	60.06 Peace Officer's Authority
60.03 Administration and Enforcement	60.07 Obedience to Peace Officers
60.04 Power to Direct Traffic	60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Fayette 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.

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

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

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

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

emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

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

(Code of Iowa, Sec. 321.273 & 321.274)

60.06 PEACE OFFICER'S AUTHORITY. Any peace officer is authorized to stop any vehicle to require exhibition of the driver's motor vehicle license, 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, 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.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor or Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefore. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been

invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation

61.04 Standards

61.02 Crosswalks

61.05 Compliance

61.03 Traffic Lanes

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

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Police Chief is hereby authorized, subject to approval of the Council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

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

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

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

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

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations

62.07 Tampering with Vehicle

62.02 Play Streets Designated

62.08 Open Container of Alcoholic Beverage, Wine

62.03 Vehicles on Sidewalks

or Beer on Streets and Highways

62.04 Clinging to Vehicle

62.09 Obstructing View at Intersections

62.05 Quiet Zones

62.10 Reckless Driving

62.06 Funeral Processions

62.11 Disturbing the Peace With Motor Vehicle

62.12 Penalties

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 shall fail 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 321.32 — Registration card, carried and exhibited.
2. Section 321.37 — Display of plates.
3. Section 321.38 — Plates, method of attaching, imitations prohibited.
4. Section 321.79 — Intent to injure.
5. Section 321.98 — Operation without registration.
6. Section 321.174 — Operators licensed.
7. Section 321.193 — Restricted licenses.
8. Section 321.216 — Unlawful use of license and non-operator's identification card.

9. Section 321.218 — Driving without valid license.
10. Section 321.219 — Permitting unauthorized minor to drive.
11. Section 321.220 — Permitting unauthorized person to drive.
12. Section 321.221 — Employing unlicensed chauffeur.
13. Section 321.222 — Renting motor vehicle to another.
14. Section 321.223 — License inspected.
15. Section 321.224 — Record kept.
16. Section 321.232 — Radar jamming devices; penalty.

17. Section 321.234A — All-terrain vehicles.
18. Section 321.240 — Altering center of gravity of vehicle.
19. Section 321.247 — Golf cart operation on City streets.
20. Section 321.259 — Unauthorized signs, signals or markings.
21. Section 321.262 — Damage to vehicle.
22. Section 321.263 — Information and aid.
23. Section 321.264 — Striking unattended vehicle.
24. Section 321.265 — Striking fixtures upon a highway.
25. Section 321.275 — Operation of motorcycles and motorized bicycles.
26. Section 321.278 — Drag racing prohibited.

27. Section 321.288 — Control of vehicle; reduced speed.
28. Section 321.295 — Limitation on bridge or elevated structures.
29. Section 321.297 — Driving on right-hand side of roadways;
exceptions.
30. Section 321.298 — Meeting and turning to right.
31. Section 321.299 — Overtaking a vehicle.
32. Section 321.302 — Overtaking on the right.
33. Section 321.303 — Limitations on overtaking on the left.
34. Section 321.304 — Prohibited passing.
35. Section 321.307 — Following too closely.
36. Section 321.308 — Motor trucks and towed vehicles; distance
requirements.
37. Section 321.309 — Towing; convoys; drawbars.
38. Section 321.310 — Towing four-wheel trailers.
39. Section 321.312 — Turning on curve or crest of grade.
40. Section 321.313 — Starting parked vehicle.
41. Section 321.314 — When signal required.
42. Section 321.315 — Signal continuous.
43. Section 321.316 — Stopping.

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65. Section 321.365 — Coasting prohibited.
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- 98. Section 321.422 — Red light in front.
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- 101. Section 321.430 — Brake, hitch and control requirements.
- 102. Section 321.431 — Performance ability.
- 103. Section 321.432 — Horns and warning devices.
- 104. Section 321.433 — Sirens and bells prohibited.
- 105. Section 321.434 — Bicycle sirens or whistles.
- 106. Section 321.436 — Mufflers, prevention of noise.
- 107. Section 321.437 — Mirrors.
- 108. Section 321.438 — Windshields and windows.
- 109. Section 321.439 — Windshield wipers.
- 110. Section 321.440 — Restrictions as to tire equipment.
- 111. Section 321.441 — Metal tires prohibited.
- 112. Section 321.442 — Projections on wheels.
- 113. Section 321.444 — Safety glass.

- 114. Section 321.445 — Safety belts and safety harnesses — use required.
- 115. Section 321.446 — Child restraint devices.
- 116. Section 321.449 — Motor carrier safety regulations.
- 117. Section 321.450 — Hazardous materials transportation.
- 118. Section 321.454 — Width of vehicles.
- 119. Section 321.455 — Projecting loads on passenger vehicles.
- 120. Section 321.456 — Height of vehicles; permits.
- 121. Section 321.457 — Maximum length.
- 122. Section 321.458 — Loading beyond front.
- 123. Section 321.460 — Spilling loads on highways.
- 124. Section 321.461 — Trailers and towed vehicles.
- 125. Section 321.462 — Drawbars and safety chains.
- 126. Section 321.463 — Maximum gross weight.
- 127. Section 321.465 — Weighing vehicles and removal of excess.
- 128. Section 321.466 — Increased loading capacity - re-registration.

- 129 Section 321-20B - - Failure to prove security against liability (non
accident related)
- 130 Section 321-20B - - Failure to prove security against liability (accident
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related)

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

62.03 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

62.04 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.

62.05 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

62.06 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 OPEN CONTAINER OF ALCOHOLIC BEVERAGE, WINE OR BEER ON STREETS AND HIGHWAYS. A person driving a motor vehicle shall not knowingly possess in a motor vehicle upon a public street or highway an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage, wine, or beer with the intent to consume the alcoholic beverage, wine, or beer while the motor vehicle is upon a public street or highway. Evidence that an open or unsealed receptacle containing an alcoholic beverage, wine or beer was found during an authorized search in the glove compartment, utility compartment,

console, front passenger seat, or any unlocked portable device and within the immediate reach of the driver while the motor vehicle is upon a public street or highway is evidence from which the court or jury may infer that the driver intended to consume the alcoholic beverage, wine or beer while upon the public street or highway if the inference is supported by corroborative evidence. However, an open or unsealed receptacle containing an alcoholic beverage, wine or beer may be transported at any time in the trunk of the motor vehicle or in some other area of the interior of the motor vehicle not designed or intended to be occupied by the driver and not readily accessible to the driver while the motor vehicle is in motion.

(Code of Iowa, Sec. 321.284)

62.08 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.

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

(Code of Iowa, Sec. 321.277)

62.10 DISTURBING THE PEACE WITH MOTOR VEHICLE. No person shall operate any motor vehicle, including motorcycles, in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle; create excessive noise by means of racing or revving of the engine; or in any other manner which creates loud and excessive noise to the annoyance or discomfort of others.

62.11 ENGINE BRAKES AND COMPRESSION BRAKES

1. It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City of Fayette any engine brake, compression brake or mechanical

exhaust device designed to aid in the braking or deceleration of any vehicle that results in loud, unusual or explosive noise from such vehicle, except in response to an imminent traffic collision.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred (300) feet from the motor shall constitute evidence of a prima facie violation of this section.

3. The scheduled fine for a violation of this section shall be fifty dollars (\$50) plus surcharges and court costs as established by the Iowa Legislature.

62.12 PENALTIES. A violation of this chapter may be punishable as either a Uniform Traffic Offense with penalties as outlined in the State of Iowa Compendium of Scheduled Violations and Scheduled Fines or as a City of Fayette Municipal Infraction.

Municipals Infractions for Stop Sign, Expired Insurance and No Seat belt, fines shall be \$75 per violation. For all other violations in this chapter, fine shall be \$50. Any violation associated with a crash or a criminal offense or any commercial vehicle is prohibited from a Municipal Infraction.

Municipal Infractions shall be due no later than 21 days from date of issuance. Should due date fall on a weekend day, fines shall be due the next working business day. Failure to pay the Municipal Infraction Citation will result in the offense written as a Uniform Traffic Offense using the State of Iowa Compendium of Scheduled Violations and Scheduled Fines including surcharge and court costs. Any offense not in the compendium shall be charged at \$50 plus State of Iowa approved surcharge and court costs.

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CHAPTER 63

SPEED REGULATIONS

<p>63.01 General</p> <p>63.02 Business District</p> <p>63.03 Residence or School District</p> <p>63.04 Suburban District</p> <p>63.05 Parks, Cemeteries and Parking Lots</p> <p>63.06 Special Speed Restrictions</p>	<p>63.07 Special 35 MPH Speed Zones</p> <p>63.08 Special 45 MPH Speed Zones</p> <p>63.09 Special 55 MPH Speed Zones</p> <p>63.10 Minimum Speed</p> <p>63.11 Emergency Vehicles</p> <p>63.12 Penalties</p>
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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 BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this chapter, is unlawful.

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

63.03 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this chapter, is unlawful.

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

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

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

63.05 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])

63.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location.

(Code of Iowa, Sec. 321.290)

63.07 SPECIAL 35 MPH SPEED ZONES. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Washington Street from the south corporate line to the intersection with County Road C-24;
2. County Road C-24 from the east corporate line to Washington Street;
3. North Main Street to the north corporate line;
4. County (Lima) Road from the north corporate line to North Main Street;
5. Big Rock Road from the east corporate line to Lima Road;
6. Iowa Highway No. 150 from Station Point 825 to the north corporate line;
7. Iowa Highway No. 93 from Station Point 721 to intersection with Iowa Highway No. 150.

63.08 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.

1. Iowa Highway No. 150, from Station Point 825 to Station Point 810;
2. Iowa Highway No. 93, from Station Point 721 to the west corporate line.

63.09 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.

1. Iowa Highway No. 150 from Station Point 810 to south corporate line.

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

(Code of Iowa, Sec. 321.294)

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

(Code of Iowa, Sec. 321.231)

63.12 PENALTIES. A violation of this chapter may be punishable as either a Uniform Traffic Offense with penalties as outlined in the State of Iowa Compendium of Scheduled Violations and Scheduled Fines or as a City of Fayette Municipal Infraction.

Regardless of the Speed zone, the following Municipal Infraction penalties shall apply for the following speeds over the posted limit: 1-10mph - \$75; 11-15mph - \$85; 16-20 - \$95. Any speed over 20mph, a violation associated with a crash or a criminal offense or any commercial vehicle is prohibited from a Municipal Infraction.

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CHAPTER 64

TURNING REGULATIONS

64.01 Authority to Mark

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

(Code of Iowa, Sec. 321.311)

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Before Crossing Sidewalk

65.03 Yield to Pedestrians in Crosswalks

65.02 Stop When Traffic is Obstructed

65.01 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.02 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.

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.04 Load Limits on Bridges

66.02 Permits for Excess Size and Weight

66.05 Truck Route

66.03 Load Limits Upon Certain Streets

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. East Water Street from Main Street to Jones Street;
2. Washington Street from Seventh Street to East Water Street;
3. On Franklin Street, Clark Street, Madison Street, Jay Street, Mary Street, College Street and State Street from the east corporate line to the west corporate line;

4. On Jones Street, Union Street, King Street, Mechanics Street, Volga Street, Vine Street and Lovers Lane from the south corporate line to the north corporate line.

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

(Code of Iowa, Sec. 321.473)

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

1. Truck Routes Designated. All trucks, except pickups and light delivery or panel delivery trucks, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

- A. Water Street from west corporate line to Main Street;
- B. Main Street from Water Street to Seventh Street;
- C. Seventh Street from Main Street to Washington Street;
- D. Washington Street from Seventh Street to south corporate line;
- E. County Road from Washington Street to east corporate line.

2. Deliveries Off Truck Route. Any truck, except pickups and light delivery or panel delivery trucks, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street

67.03 Pedestrian Crossing

67.02 Hitchhiking

67.04 Use Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. Volga Street is southbound only from State Street to Clark Street.

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CHAPTER 69

PARKING REGULATIONS

<p>69.01 Park Adjacent to Curb</p> <p>69.02 Park Adjacent to Curb - One-way Street</p> <p>69.03 Angle Parking</p> <p>69.04 Angle Parking - Manner</p> <p>69.05 Parking for Certain Purposes Illegal</p> <p>69.06 Parking Prohibited</p> <p>69.07 Handicapped Parking</p>	<p>69.08 No Parking Zones</p> <p>69.09 All Night Parking Prohibited</p> <p>69.10 Truck Parking Limited</p> <p>69.11 Loading Zone Parking</p> <p>69.12 Snow Removal</p> <p>69.13 Snow Routes</p> <p>69.14 Controlled Access Facilities</p>
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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. Main Street, on either side, from Volga River Bridge to Clark Street;
2. Washington Street, on the east side, from Clark Street to north 275 feet;

3. Clark Street, on the north side, from North Street to Washington Street;
4. State Street, on the north side, from King Street to Mechanics Street;
5. Volga Street, on the west side, from State Street to 225 feet south;
6. King Street, on the east side, from State Street to south 100 feet;
7. King Street, on the west side, from State Street north 50 feet;

8. Mechanics Street, on the east side, from State Street north 100 feet;
9. Mechanics Street, on the west side, abutting Lot 3 and the south 18 feet of Lot 2, Block 23;
10. Clark Street, on the north side, abutting the east 35 feet of the west 50 feet of Lot 7, Block 12.

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])

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

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

1. Crosswalk. On a crosswalk.

(Code of Iowa, Sec. 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

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

4. Sidewalks. On or across a sidewalk.

(Code of Iowa, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.

(Code of Iowa, Sec. 321.358 [2])

6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.

(Code of Iowa, Sec. 321.358 [3])

7. Fire Hydrant. Within ten (10) 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. Theatres, Hotels and Auditoriums. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

69.07 HANDICAPPED PARKING. The following regulations shall apply to the establishment and use of handicapped parking spaces:

1. **Nonresidential Off-street Facilities.** Nonresidential off-street parking facilities shall set aside handicapped parking spaces in accordance with the following:

A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as handicapped parking spaces, rounded to the nearest whole number of handicapped parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one handicapped parking space.

(Code of Iowa, Sec. 321L.5[3a])

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B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing handicapped parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for handicapped parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional handicapped parking spaces as needed.

(Code of Iowa, Sec. 321L.5[3b])

C. An entity providing off-street nonresidential parking as a lessor shall provide a handicapped parking space to an individual requesting to lease a parking space, if that individual possesses a handicapped parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

(Code of Iowa, Sec. 321L.5[3c])

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide handicapped parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF HANDICAPPED PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	*
1001 and over	**
*Two percent (2%) of total	
**Twenty (20) spaces plus one for each 100 over 1000	

(Code of Iowa, Sec. 321L.5[3d])

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one handicapped parking space as needed for each individual dwelling unit in which a handicapped person resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate handicapped parking spaces in the visitors parking area in accordance with the table contained in subsection (1)(D) of this section.

(IAC, 661-18.7[321L])

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as handicapped parking spaces.

(Code of Iowa, Sec. 321L.5[4a])

4. Other Spaces. Any other person may set aside handicapped parking spaces on the person's property provided each parking space is clearly and prominently designated as a handicapped parking space. No person shall establish any on-street handicapped parking spaces without first obtaining Council approval.

(Code of Iowa, Sec. 321L.5[3e])

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

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

A. Use by a motor vehicle not displaying a handicapped parking permit;

B. Use by a motor vehicle displaying a handicapped parking permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a non-operator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly and the persons being so transported in a vehicle displaying a removable windshield placard in accordance with Section 321L.2[1b] of the Code of Iowa);

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

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. Main Street on the east side from Seventh Street to Clark Street;
2. Volga Street on the east side from State Street to College Street;
3. Clark Street on the north side from North Street to Union Street;
4. Washington Street on the west side from College Street to Madison Street;
5. Jay Street on the south side from Main Street to Washington Street;
6. Washington Street on the east side from Madison Street south 225 feet;
7. Washington Street on the east side from Jay Street to Mary Street;
8. Washington Street on the west side from College Street to Madison Street;
9. Union Street on the east side from the Victory Gate (North end frontage of 513 Union Street) south to southern edge frontage of 633 Union Street;
10. Franklin Street on the south side from Vine Street to State Street between the hours of 8:00 a.m. and 4:00 p.m.;
11. Clark Street on the north side 310 feet west of the west line of Vine Street as relocated and Clark Street on the south side from Volga Street to Highway 150.
12. Wadena Road from Washington Street to Union Street (both sides).

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than thirty (30) minutes during the times indicated.

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

1. Between the hours of 12:01 a.m. and 6:00 a.m. of any day, on the following streets:
 - A. Main Street, on the west side, from Clark Street to Seventh Street;
 - B. Washington Street, on the east side from 225 feet south of Madison Street to Jay Street;
 - C. Washington Street (west side) from Jay Street south 180 feet;
 - D. Union Street (west side) from Madison Street south 1,250 feet;
 - E. Clark Street, on the south side, from Union Street to 175 feet east of Washington Street;
 - F. Washington Street, on the east side, from Clark Street to Madison Street.

2. Between the hours of 2:00 a.m. and 6:00 a.m. on any day, on the following streets:
 - A. Main Street, on both sides, from Volga River Bridge to Clark Street.

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

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

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

- A. South Main on both sides from Water Street to Clark Street;
- B. State Street on both sides from Washington Street to King Street;
- C. West Clark Street on the north side from Main Street to King Street.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 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 giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

69.11 LOADING ZONE PARKING. No one shall stop, stand or park a vehicle, except for trucks and then only for the purpose of loading or unloading cargo, in any of the following designated loading zones:

- 1. West Water Street, on the north side, from Main Street to a point 120 feet west.

69.12 SNOW REMOVAL. No person shall park, abandon or leave unattended, any vehicle on the traveled portion of any City street or alley from November 1st through March 31st between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. or during snow removal operations when the mayor has declared a Snow Emergency to exist. Signs indicating the November 1st through March 31st 2:00 a.m.-6:00 a.m. period shall be posted and maintained in proper order by the Street Department at each entrance to Fayette so proper notification can be given to motorists. All motor vehicles left parked, unattended or abandoned on any city street from November 1st through March 31st between the hours of

two o'clock (2:00) a.m. and six o'clock (6:00) a.m. shall be ticketed by Law Enforcement Officials or their designee and towed at the discretion of the Law Enforcement Officials or their designee at the owner's expense to the nearest facility, garage or impound yard approved by the Police Chief. All impounded vehicles under this ordinance may be released only after the costs of impoundment have been paid in full with cash or assuery. All tickets issued under this ordinance must be paid within a 72 hour period unless the vehicle's owner is otherwise granted an extension by the Mayor following a formal request for a public hearing before the City Council.

Following a winter storm where the accumulation of six (6) inches of snow or more has fallen, or when the Mayor has declared a Snow Emergency, no person shall park, abandon, or leave unattended, any vehicle on the traveled portion of any street or alley, or in any off-street parking areas in the public right-of-way and lying between the property lines along the sidewalk areas and the street edge until such snow has been moved back by City Street Department crews. In areas of town where sidewalk does not exist, the City Map indicating right of ways, which is posted in the Council Chambers in City Hall, should be used as a guide. This is to allow the City Street Department crews to clear snow back away from the street's edge and to promote safety through increased visibility and a roadway free of narrowing or unnecessary obstructions.

In the event a Snow Emergency is declared by the Mayor to exist, the City Administrator/Clerk or the Chief of Police shall immediately notify the area news stations via facsimile of the declared Snow Emergency stating the time and date of the posting along with the period for which the Emergency is in force.

For the purpose of declaring the traveled portion areas of a street or alley, this would include all hard-surfaced areas of the street and forty-eight (48) inches from the edge of the street which is maintained by the City known as the shoulder.

The City Administrator shall cause notice of this ordinance to be posted at City Hall, Library, Bank Lobby and Post Office in Fayette each October prior to the enforcement date of the Snow Ordinance. The City Administrator/Clerk or designee shall also publish the notice in the local newspaper once in October, to serve as an additional warning to motorists and property owners.

(Code of Iowa, 321.236[1])

69.13 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])

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

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.04 Parking Violations: Vehicle Unattended

70.02 Scheduled Violations

70.05 Presumption in Reference to Illegal Parking

70.03 Parking Violations: Alternate

70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

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70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Administrator/Clerk. The simple notice of a fine shall be in the amount of fifteen dollars (\$15.00) for all violations except snow route parking violations and improper use of a handicapped parking permit and shall carry a payment time of 72 hours with the following warning on the ticket: "Failure to pay this fine within the designated time frame will result in criminal prosecution.". If such fine is not paid within thirty (30) days, it shall be increased to twenty dollars (\$20.00). The simple notice of a fine for snow route parking violations is thirty dollars (\$30.00). 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 improper use of a handicapped parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

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

EDITOR'S NOTE: A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. **(See Section 69.13.)**

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 (72) 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])

6. Vehicle may be impounded or a wheel lock affixed to the vehicle if the vehicle has any of the following: 2 or more unpaid parking violations of within a 30 day continuous period; or, 1 or more unpaid parking tickets over 30 days old. Cost of towing or wheel lock fees along with all parking violation fees shall be paid prior to release of vehicle. Wheel lock fee shall be \$25.

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.05 Hours of Operation

75.02 Definitions

75.06 Negligence

75.03 General Regulations

75.07 Accident Reports

75.04 Places of Operation

75.08 Utility Vehicle (UTV) Operation

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

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow or ice.

(Code of Iowa, Sec. 321G.1 [2])

3. "Utility Vehicle" or "UTV" means a motorized vehicle that has passenger seating not astride the motor or drive train, at least 4 but no more than 6 low pressure flotation tires, engine displacement less than 1,000 cubic centimeters and dry weight not more than 1,400 pounds.

75.03 GENERAL REGULATIONS. No person shall operate an ATV or snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or rules established

by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

(Code of Iowa, Ch. 321G)

75.04 PLACES OF OPERATION. The operators of ATV's and snow-mobiles shall comply with the following restrictions as to where ATV's and snowmobiles may be operated within the City:

1. Streets. ATV's and snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on the following designated streets:

A. Along Highway 150 on Iowa Department Transportation Right-of way consistent with Iowa State Law.

B. Main Street, from the north corporate line to Water Street.

C. East Water Street, from Main Street to Washington Street.

D. Washington Street, from E. Water Street to the County Road (C24) to Wadena.

E. County Road (C24) "Wadena Road" to the east corporate line.

F. East State Street, from Washington Street to Main Street.

G. From the intersection of Highway 150, west of 515 E. Water Street (The Pumper) to the recreation trail east of the Highway 150 bridge and on the recreation trail to the Main Street bridge. The portion of the recreation trail west of the Highway 150 bridge is not allowed.

H. Other Streets: Snowmobiles may be operated on any street within the city for the sole and exclusive purpose of using the most direct roadway for the ingress or egress to/from the city. No snowmobile shall be driven on any roadway or right-of-way except for the provisions listed in this chapter.

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

2. Exceptions. ATV's and snowmobiles may be operated on prohibited streets

only under the following circumstances:

A. Emergencies. ATV's and 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. ATV's and snowmobiles may make a direct crossing of a prohibited street provided:

(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 ATV or 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. ATV's and snowmobiles shall not be operated on an operating railroad right-of-way. An ATV or 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[8])

4. Trails. ATV's shall not be operated on snowmobile trails and snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

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

5. Parks and Other City Land. ATV's and snowmobiles shall not be operated in

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

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

75.05 HOURS OF OPERATION. No snowmobile shall be operated in the City between the hours of ten-thirty o'clock (10:30) p.m. and eight o'clock (8:00) a.m. except for emergency situations or for loading and unloading from a transport trailer.

75.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile is liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile.

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars (\$200.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours, in accordance with State law.

(Code of Iowa, Sec. 321G.10)

75.08 UTILITY VEHICLE (UTV) OPERATION. A person may operate an UTV within the city limits in accordance to all conditions set forth in this sub-section. This sub-section does not apply or modify the conditions of ATV's or snowmobile operation as outlined in this chapter.

1. Registration: The owner of an UTV must register the vehicle with the City of Fayette through the Fayette Police Department. To register the UTV, the owner must do and provide the following:

- a. Pay an initial registration fee of \$75 per year per UTV (and for new UTV's), then in subsequent years pay a registration fee of \$10 per UTV.
- b. Register the vehicle prior to operation on the roadway and then re-register it on or before the first business day following January 1st.
- c. Show proof of financial responsibility for the UTV.
- d. Show proof of ownership
- e. Permit examination of the UTV and show that all factory installed lights are in proper working order. Vehicle must have, if factory equipped, headlamps, tail lamps and turn signals.
- f. Sign an acknowledgement that the owner understands all aspects of this subsection.

2. Operational Restrictions: Once registered, the owner must comply with the following use restrictions:

- a. Operation shall be from dawn to dusk as established by the Iowa Department of Natural Resource Sunrise/Sunset table.
- b. Operator shall be at least 18 years of age with a valid Driver's license.
- c. Operator shall consent to an examination of license and proof of registration upon request by a law enforcement officer.
- d. Operator shall adhere to all traffic regulations including, but not limited to speed limits, stop/yield signs, parking regulations, etc.
- e. Operator shall not operate the UTV on sidewalks (except for snow removal), within city parks, bike/walking trails or on/through private property.

3. Negligence: Owners and operators of UTV's are responsible for any damage or injury caused by the operation of the vehicle either legally or illegally.

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

4. Road Restrictions: UTV's shall not be operated on the following roadways except for direct crossing and during times when ATV's can be legally operated:

- a. Main Street from Water to 7th
- b. Clark Street from Mechanic to Vine
- c. Franklin Street from Volga to Vine
- d. Vine from Clark to Franklin
- e. Volga from Clark to Franklin
- f. Wadena road east of Union except for egress from the city limits
- g. Old Hwy 150 N. north of Station Road
- h. Any portion of Hwy 150 including right of ways and ditches.
- i. West Water west of 150

5. Penalty: Any operator that violates any part of this subsection shall be issued a civil citation of:

- a. Seventy-five dollars (\$75.00) for the first offense
- b. One-hundred dollars (\$100.00) for the second offense and revocation of the registration for the remainder of the registration period.
- c. One-hundred fifty dollars (\$150.00) for the third or subsequent offenses

If the civil citation is not paid within 21 calendar days, the civil citation will be re-issued as a criminal citation and forwarded to the Fayette County Court for prosecution.

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CHAPTER 76
BICYCLE REGULATIONS

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

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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CHAPTER 78

SCOOTERS, SKATEBOARDS, ROLLER SKATES AND IN-LINE SKATES

78.01 Definitions

78.03 Use of Sidewalks

78.02 Operation Prohibited in Certain Areas

78.04 Use on Streets

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

1. "Roller skates" or "in-line skates" means skates with wheels instead of a runner;
2. "Scooter" means a device having two wheels and a low footboard which is steered by a handlebar and is propelled by pushing one foot against the ground while resting the other on the footboard;
3. "Skateboard" means a device consisting of a short oblong piece of wood, plastic or aluminum mounted on large roller skate wheels used for riding upon while standing.

78.02 OPERATION PROHIBITED IN CERTAIN AREAS. No person shall ride or operate any scooter, skateboard or roller skates or in-line skates upon the sidewalks and streets within the Business District as defined in Section 60.02(1) of this Code of Ordinances.

78.03 USE ON SIDEWALKS. Whenever any person is using a scooter, skateboard or roller skates or in-line skates on any other sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

78.04 USE ON STREETS. Whenever any person is using a scooter, skateboard or roller skates or in-line skates on any other street, such person shall:

1. Observe all traffic control devices and be subject to all the duties applicable to the use of vehicles as required by statute or ordinance;
2. Stay as near to the right-hand side of the roadway as possible, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions	80.06 Fees for Impoundment
80.02 Authority to Take Possession of Abandoned Vehicles	80.07 Disposal of Abandoned Vehicles
80.03 Notice by Mail	80.08 Disposal of Totally Inoperable Vehicles
80.04 Notification in Newspaper	80.09 Proceeds from Sales
80.05 Extension of Time	80.10 Duties of Demolisher

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

1. "Abandoned vehicle" means any of the following:

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

- 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

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impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means any city or public agency organized for the disposal of solid waste, or any person 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 highway safety patrol or any law enforcement agency of a county or city.

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

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 an abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lien-holders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their 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 serial 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, lien-holders 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, lien-holders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or

property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaiming period, the owner, lien-holders 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, lien-holders or claimants after the expiration of the ten (10) day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien-holders, 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 EXTENSION OF TIME. The owner, lien-holders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtain an additional five (5) days within which the motor vehicle or personal property may be reclaimed.

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

80.06 FEES FOR IMPOUNDMENT. The owner, lien-holder or claimant shall pay an impoundment fee, 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])

80.07 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])

80.08 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])

80.09 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])

80.10 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])

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