

**CHAPTER 1**  
**CODE OF ORDINANCES**

<b>1.01 Title</b>	<b>1.07 Amendments</b>
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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.
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"Ordinances" means the ordinances of the City of Fayette, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 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.

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**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 five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days. This section shall specifically apply to all offenses in Chapters 40 - 47.

*(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.



CHAPTER 2

CHARTER

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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 5<sup>th</sup> 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;

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BOUNDARIES

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)*

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

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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])*

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**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. Robertson's 2nd Addition.

Amendment No. Two Area

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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  
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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])*

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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:

*(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])*

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

**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 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

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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

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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

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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.
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.

*(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 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

25.02 Board Created

25.03 Board Organization

25.04 Duties

25.05 Reports

25.06 Rules and Regulations

25.07 Excepted Powers

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

26.02 Creation and Establishment

26.03 Term of Office

26.04 Compensation

26.05 Duties and Responsibilities

26.06 Operation

26.07 Unlawful Acts

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, the majority of the members must be 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

27.02 Proceedings

27.03 Hearings, Appeals, Notice

27.04 Stay of Proceedings

27.05 Powers and Duties

27.06 Decisions

27.07 Appeals from Board of Adjustment

**27.01 CREATION AND MEMBERSHIP.** A Board of Adjustment is hereby established. The Board shall consist of seven (7) 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. The Board of Adjustment shall appoint a Chairperson and a Vice-Chairperson. Meetings shall be held at the call of the Chairperson or Vice-Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, the Vice-Chairperson, may administer oaths and compel attendance of witnesses. A minimum of five (5) members, including the Chairperson and/or the Vice-Chairperson, shall be present at each meeting. 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 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.

**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

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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)*

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

*(Code of Iowa, Sec. 102.3)*



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

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

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

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

*(Code of Iowa, Sec. 100.2 & 100.3)*

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

*(Code of Iowa, Sec. 100.12)*

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

*(Code of Iowa, Sec. 100.13)*

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

*(Code of Iowa, Sec. 100.4)*

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

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

**35.08 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 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

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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

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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.

*(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 as well as additional court costs.

**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.

**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, 41.10 and 41.11. Municipal infraction penalty is fifty dollars (\$50) per instance of conduct cited along with additional court costs.





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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.

*(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) and additional court costs may be imposed in lieu of a criminal citation.







**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.**

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 any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

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

**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 fifty dollars (\$50.00) and additional court costs may be imposed in lieu of a criminal citation for violating any part of this chapter.

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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.

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**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 fifty dollars (\$50.00) and additional court costs may be imposed in lieu of a criminal citation for violating any part of this chapter.

**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.**

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 fifty dollars (\$50.00) and additional court costs may be imposed in lieu of a criminal citation for violating any part of this chapter.

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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])*

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])*

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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, grass, other botanical growth or other similar vegetation in the City which constitute a health, safety or fire hazard or which are obnoxious or unsightly. **(See also Chapter 52)**

*(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:

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*(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 be issued. 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. 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**

CODE OF ORDINANCES, FAYETTE, IOWA

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 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.

*(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 52  
GRASS, WEEDS, VINES AND BRUSH**

52.01	Purpose	52.05	Notice to owners
52.02	Definitions	52.06	Appeals
52.03	Maintenance of boulevard, residential and commercial property	52.07	Failure to comply
52.04	Exemptions		

**52.01 PURPOSE.** The purpose of this chapter is to require owners of residential and commercial property to cut their grass, weeds, vines and brush when it exceeds approximately eight inches in height or which are obnoxious or unsightly.

**52.02 DEFINITIONS.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. "Boulevard" means the property outside a property owner's lot and property lines and inside the curb lines upon the public streets or, in the absence of a curb, from the traveled portion of the public streets to the lot or property.
2. "Commercial Property" means a property located in an area occupied by a business or where commercial activity or enterprise customarily engaged in as a means of livelihood or occupation, usually although not necessarily with intention of producing gain or profit.
3. "Residential Property" means a property located in an area occupied by residential dwellings included but not limited to houses and apartments and any property within 200 feet of a dwelling.

**52.03 MAINTENANCE OF BOULEVARD, RESIDENTIAL AND COMMERCIAL PROPERTY.** All owners of residential or commercial property shall maintain their property and the abutting boulevard by cutting or destroying all grasses, weeds, vines and brush when the growth exceeds approximately eight inches in height or which are obnoxious or unsightly.

**52.04 EXEMPTIONS.** The following areas are exempt from the requirements of 52.03:

- (A) Property parcel that is ten acres or larger unless the parcel is commercially or industrially developed;
- (B) Agricultural land;
- (C) Garden plants, orchards, vineyards, farm crops;
- (D) Arboretums, city recognized areas for the growth of native grass, flower prairie, prairie grass or similar growth, provided that the owner has been granted an exemption by resolution of the Council, maintains the area free of weeds and there is no safety, health or fire hazard created by permitting the growth; and
- (E) Hillsides exceeding a two to one slope unless the growth creates a public health, safety or fire hazard.

**52.05 NOTICE TO OWNERS.**

(A) For the first violation of this chapter in each calendar year on a parcel of property, the Public Works Director, Police Chief or designee shall notify the property owner by certified U.S. mail, return receipt requested, or served by personal service of a Sworn Law Enforcement Official that a condition that violates the terms of this chapter exists and shall notify the property owner of the actions that must be performed to correct the condition and the notice shall state that the condition shall be corrected within five days from the date that the notice is received, returned to the city unclaimed or personally served.

(B) For subsequent violations on the same parcel of property owned by the same person in the same calendar year a written notice will not be sent. For subsequent violations, the Public Works Director, Police Chief or designee shall verify the violation exists and that the parcel of property is still owned by the same person to whom the first notice was sent. If a subsequent violation exists, the Public Works Director, Police Chief or designee shall order the work done by city employees or by a contractor.

(C) The City Administrator/Clerk shall publish in the local newspaper prior to May 1 of each year a notice advising the public that city ordinance requires the cutting of grasses, weeds, vines and brush exceeding eight inches in height and notice of violation will be mailed only once a year for each property. Subsequent violations will not receive a written notice.

**52.06 APPEALS.** If the property owner objects to the notice of action required under this chapter, the objection shall be filed by the property owner with the City Administrator/Clerk's office in writing within five days of the date of the notice. The objection shall be heard by the Public Works Director, Police Chief or designee without unnecessary delay and the Public Works Director, Police Chief or designee shall make a decision regarding the notice and shall immediately notify the property owner of the decision in writing. Failure to appeal within the time specified constitutes a waiver of all rights to a hearing.

**52.07 FAILURE TO COMPLY.** If the property owner fails to maintain the property as required under this chapter after notice is given as provided in this chapter, the Public Works Director, Police Chief or designee shall order the work to be done by city employees or by a contractor. The

total cost of the expense of the work done, including any administrative fees, shall be paid by the property owner. Failure to pay shall result in the cost being assessed against the property for collection in the same manner as a property tax.

## 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:
    - (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 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) and additional court costs may be imposed in lieu of a criminal citation.

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.

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

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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  
61.02 Crosswalks  
61.03 Traffic Lanes

61.04 Standards  
61.05 Compliance

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

*(Code of Iowa, Sec. 321.255)*

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

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

**61.03 TRAFFIC LANES.** The Police Chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with 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 or Beer on Streets and Highways
62.03 Vehicles on Sidewalks	62.09 Obstructing View at Intersections
62.04 Clinging to Vehicle	62.10 Reckless Driving
62.05 Quiet Zones	62.11 Disturbing the Peace With Motor Vehicle
62.06 Funeral Processions	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 321 Traffic 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.
  
44. Section 321.317 — Signals by hand and arm or signal device.
45. Section 321.319 — Entering intersections from different highways.
46. Section 321.320 — Left turns; yielding.
47. Section 321.321 — Entering through highways.



48. Section 321.322 — Vehicles entering stop or yield intersection.
49. Section 321.323 — Moving vehicle backward on highway.
50. Section 321.324 — Operation on approach of emergency vehicles.
51. Section 321.329 — Duty of driver — pedestrians crossing or working  
on highways.
52. Section 321.330 — Use of crosswalks.
53. Section 321.332 — White canes restricted to blind persons.
54. Section 321.333 — Duty of drivers.
55. Section 321.340 — Driving through safety zone.
56. Section 321.341 — Obedience to signal of train.
57. Section 321.342 — Stop at certain railroad crossings; posting warning.
58. Section 321.343 — Certain vehicles must stop.
59. Section 321.344 — Heavy equipment at crossing.
60. Section 321.354 — Stopping on traveled way.
61. Section 321.359 — Moving other vehicle.
62. Section 321.362 — Unattended motor vehicle.
63. Section 321.363 — Obstruction to driver's view.
64. Section 321.364 — Preventing contamination of food by hazardous  
material.
65. Section 321.365 — Coasting prohibited.
66. Section 321.367 — Following fire apparatus.
67. Section 321.368 — Crossing fire hose.

68. Section 321.371 — Clearing up wrecks.
69. Section 321.372 — School buses.
70. Section 321.381 — Movement of unsafe or improperly equipped vehicles.
71. Section 321.382 — Upgrade pulls; minimum speed.
72. Section 321.383 — Exceptions; slow vehicles identified.
73. Section 321.384 — When lighted lamps required.
74. Section 321.385 — Head lamps on motor vehicles.
75. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
76. Section 321.387 — Rear lamps.
77. Section 321.388 — Illuminating plates.
78. Section 321.389 — Reflector requirement.
79. Section 321.390 — Reflector requirements.
80. Section 321.392 — Clearance and identification lights.
81. Section 321.393 — Color and mounting.
82. Section 321.394 — Lamp or flag on projecting load.
83. Section 321.395 — Lamps on parked vehicles.
84. Section 321.398 — Lamps on other vehicles and equipment.
85. Section 321.402 — Spot lamps.
86. Section 321.403 — Auxiliary driving lamps.
87. Section 321.404 — Signal lamps and signal devices.

88. Section 321.405 — Self-illumination.
89. Section 321.406 — Cowl lamps.
90. Section 321.408 — Back-up lamps.
91. Section 321.409 — Mandatory lighting equipment.
92. Section 321.415 — Required usage of lighting devices.
93. Section 321.417 — Single-beam road-lighting equipment.
94. Section 321.418 — Alternate road-lighting equipment.
95. Section 321.419 — Number of driving lamps required or permitted.
96. Section 321.420 — Number of lamps lighted.
97. Section 321.421 — Special restrictions on lamps.
98. Section 321.422 — Red light in front.
99. Section 321.423 — Flashing lights.
100. Section 321.424 — Sale of lights — approval.
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 321.178(2)(a)(2)(a) - Use of electronic communication device.
130. Section 321.180B(6)(a) – Use of Electronic Communication Device on GDL.
131. Section 321.194(2)(b)(2) – Use of Electronic Communications Device while driving on Minor School License

- 132. Section 321.276 – Use of Electronic Communications Device – Age 18 or above
- 133. Section 321.257(2)(h) – Fail to yield to pedestrian within intersection
- 134. Section 321.277A – Careless Driving

**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 a Uniform Traffic Offense with penalties as outlined in the State of Iowa Compendium of Scheduled Violations and Scheduled Fines.

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**CHAPTER 63**  
**SPEED REGULATIONS**

- 63.01 General
- 63.02 Business District
- 63.03 Residence or School District
- 63.04 Suburban District
- 63.05 Parks, Cemeteries and Parking Lots
- 63.06 Special Speed Restrictions
- 63.07 Special 35 MPH Speed Zones
- 63.08 Special 45 MPH Speed Zones
- 63.09 Special 55 MPH Speed Zones
- 63.10 Minimum Speed
- 63.11 Emergency Vehicles
- 63.12 Penalties
- 63.13 Special 25 mph speed zone/Automatic Traffic Enforcement

**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. Iowa Highway No. 150 from Station Point 825 to the north corporate line;
5. 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;  
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 a Uniform Traffic Offense with penalties as outlined in the State of Iowa Compendium of Scheduled Violations and Scheduled Fines.

**63.13 Special 25 MPH SPEED ZONE.** A speed in excess of twenty-five (25) miles per hour is unlawful on the following designated streets or parts thereof.

1. Big Rock Road from the east corporate line to the intersection of Jade Road;
2. Jade Road from the north corporate line to North Main Street.

**AUTOMATIC TRAFFIC ENFORCEMENT.** The City of Fayette, in accordance with its police powers, may deploy, erect or cause to have erected an automatic traffic enforcement system for making video images of vehicles that fail to obey red light traffic signals at intersections designated by the Chief of Police, or their designee, or fail to obey speed regulations at other locations in the city. The systems may be managed by the private contractor that owns and operates the requisite equipment with supervisory control vested in the city's police department. Video images shall be provided to the police department by the contractor for review. The police department will determine which vehicle owners are in violation of the city's traffic control ordinances and are to receive a notice of violation for the offense.

#### SECTION 1.2. DEFINITIONS

1. Automated Traffic Citation shall mean a notice of fine generated in connection with the automated traffic enforcement system.
2. Automated Traffic Enforcement Contractor shall mean the company or entity, if any, with which the City of Fayette contracts to provide equipment and/or services in connection with the Automated Traffic Enforcement System.

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3. Automated Traffic Enforcement System shall mean an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic controller or police department employee to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control device or speed restriction.
4. Vehicle Owner shall mean the person or entity identified by the Iowa Department of Transportation, or registered with any other state vehicle registration office, as the registered owner of a vehicle detected violating a traffic law by failing to obey red light traffic signals at intersections designated by the city administrator or official designee or failing to obey speed regulations within the City. Notwithstanding the foregoing, in the event the Iowa Department of Transportation or any other state vehicle registration office identifies a person or entity as the lessee of the vehicle, that lessee shall be the vehicle owner for purposes of this 1.2. In the event a state registration office does not specify whether a person or entity listed on the registration for the vehicle is the owner or the lessee of the vehicle, any person or entity listed on that vehicle registration may be deemed the vehicle owner and held jointly and severally responsible for a violation of this section.

**SECTION 1.3 VEHICLE OWNER'S CIVIL LIABILITY FOR CERTAIN TRAFFIC OFFENSES**

1. If a vehicle is detected traveling at a speed above the posted limit, the Vehicle Owner shall be subject to a civil fine as scheduled below in subsection 1.8.
2. The violation may be exempted from liability as outlined below in subsection 1.6 of this section, and other defenses may be considered in connection with the appeal process.
3. In no event will an Automated Traffic Citation be sent or reported to the Iowa Department of Transportation or similar department of any other state for the purpose of being added to the Vehicle Owner's driving record.

**SECTION 1.4 NOTICE OF VIOLATION; FINE**

1. Upon a Fayette Police Officer's determination that the Automated Traffic Enforcement System has detected a violation described in subsections 1.3, a notice of the violation will be mailed to the Vehicle Owner for each violation recorded by an Automated Traffic Enforcement System or traffic control signal monitoring device. The Automated Traffic Enforcement Contractor shall mail the notice within 30 days after receiving information about the Vehicle Owner. The notice shall include

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the name and address of the Vehicle Owner; the vehicle make, if available and readily discernable, and registration number; the violation charged; the time; the date; and the location of the alleged violation; the applicable fine and monetary penalty which shall be assessed for late payment; information as to the availability of an administrative hearing in which the notice may be contested on its merits; and that the basis of the notice is a photographic record obtained by an Automated Traffic Enforcement System.

2. Any violation of subsection 1.3 above shall be subject to a civil fine as stated in Section 1.8. All civil fines shall be payable to the City of Fayette.

#### SECTION 1.5 CONTESTING AN AUTOMATED TRAFFIC CITATION

A Vehicle Owner who has been issued an Automated Traffic Citation may contest the citation as follows:

1. By submitting in a form specified by the City a request for an administrative hearing to be held at the Fayette Police Department before an administrative appeals board (the "Board") consisting of one or more impartial fact finders. Such a request must be filed within 30 days from the date on which Notice of the violation is sent to the Vehicle Owner. After a hearing, the Board may either uphold or dismiss the Automated Traffic Citation and shall mail its written decision within 10 days after the hearing, to the address provided on the request for hearing. If the citation is upheld, then the Board shall include in its written decision a date by which the fine must be paid, and on or before that date, the Vehicle Owner shall either pay the fine or submit a request pursuant to the next paragraph.
2. By submitting in a form specified by the City a request that in lieu of the Automated Traffic Citation, a municipal infraction citation be issued and filed with the Clerk of Courts of the Iowa District Court in Fayette County. Such a request must be filed within 30 days from the date on which Notice of the violation is sent to the Vehicle Owner. Such a request will result in a court order requiring the Vehicle Owner to file an answer and appearance with the Clerk of Court, as well as setting the matter for trial before a judge or magistrate. If the Court finds the Vehicle Owner guilty of the municipal infraction mandated court costs will be added to the amount of the fine imposed by this section.

**SECTION 1.6 EXCEPTIONS TO OWNER LIABILITY**

There shall be no liability pursuant to this section if:

1. The operator of the vehicle in question was issued a municipal infraction for the violation in question pursuant to Fayette Code 63 or was issued a uniform traffic citation for the violation in question pursuant to Chapter 321 of the Code of Iowa; or
2. The violation occurred at any time after the vehicle in question or its state registration plates were reported to a law enforcement agency as having been stolen, provided, however, the vehicle or its plates had not been recovered by the Vehicle Owner at the time of the alleged violation; or
3. The vehicle in question was an authorized emergency vehicle; or
4. The officer inspecting the recorded image determines that the vehicle in question was lawfully participating in a funeral procession; or
5. The officer inspecting the recorded image determines that the vehicle in question entered the intersection in order to yield the right-of-way to an emergency vehicle.
6. Where the vehicle in question, in the officer's determination, moved to avoid imminent danger of a vehicular accident or pedestrian injury or to come to a stop to allow a school bus to complete its disembarking procedures.

**SECTION 1.7 FAILURE TO TIMELY PAY OR APPEAL**

If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated in the citation or appeal the citation as provided herein, a municipal infraction may be filed by the Fayette Police Department and a fine may be sought in accordance with Fayette Code 63 rather than section 1.8 below. If the Court finds the Vehicle Owner guilty of the violation, mandated court costs will be added to the amount of the fine imposed by this section. If the recipient of an Automated Traffic Citation does not either pay the fine by the due date stated on the original citation or successfully challenge the citation as provided herein, the City may file a municipal infraction against the Vehicle Owner in accordance with Fayette Municipal Code 63 and 364.22 of the Code of Iowa, seeking judgment for the applicable civil fine provided in section 1.8 plus state mandated filing fee and court costs. If judgment is entered for the City in the municipal infraction proceeding, the City may, subject to applicable law, pursue enforcement of the judgment together with interest as permitted by law. Collection of that judgment may include referral to the State of Iowa Income Offset program administered by the

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Department of Administrative Services, State Accounting Enterprise. Notwithstanding the City’s right to file a municipal infraction, the City may first seek voluntary payment of the fine by sending a written request for payment to the Vehicle Owner and/or referring the matter to a private service agent to conduct collection in accordance with all applicable law.

SECTION 1.8 FINES

Subsection	Speed over the limit	Civil Fine	If in a Construction or School Zone
1	1 through 5 miles per hour ("MPH")	\$25	\$50
2	6 through 10 MPH	\$75	\$150
3	11 through 15 MPH	\$100	\$200
4	16 through 20 MPH	\$150	\$300
5	21 through 25 MPH	\$200	\$400
6	26 through 29 MPH	\$250	\$500
7	Over 30 MPH	\$400	\$800
8	Failure to stop for a red light	\$100	\$200

SECTION 1.9 Reserved.

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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.

◦◦◦◦◦◦◦◦◦

**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**

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Park Adjacent to Curb - One-way Street	69.09 All Night Parking Prohibited
69.03 Angle Parking	69.10 Truck Parking Limited
69.04 Angle Parking - Manner	69.11 Loading Zone Parking
69.05 Parking for Certain Purposes Illegal	69.12 Snow Removal
69.06 Parking Prohibited	69.13 Snow Routes
69.07 Handicapped Parking	69.14 Controlled Access Facilities

**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])*

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])*

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).
13. Mechanic Street on the east side from West Madison Street to West Jay Street.

**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 1<sup>st</sup> through March 31<sup>st</sup> 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 1<sup>st</sup> through March 31<sup>st</sup> 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 1<sup>st</sup> through March 31<sup>st</sup> 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 surety. 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])*

**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)*

**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, UTV 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 Snowmobile Operation	75.08 Utility Vehicle (UTV) and All-Terrain Vehicle (ATV) 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 one thousand five hundred (1500) cubic centimeters and in total dry weight to less than two thousand (2000) 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 1,500 cubic centimeters and dry weight not more than 1,900 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 SNOWMOBILE OPERATION.** The operators of snow-mobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on 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. Snowmobiles may be operated on prohibited streets only under the following circumstances:

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

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

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided:

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

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

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

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

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

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

*(Code of Iowa, Sec. 321G.13[8])*

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

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

**75.05 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 a snowmobile is liable for any injury or damage occasioned by the negligent operation of the snowmobile.

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

**75.07 ACCIDENT REPORTS.** Whenever an ATV, UTV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to fifteen hundred dollars (\$1500.00) 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 & 321I.11)*

**75.08 UTILITY VEHICLE (UTV) AND ALL-TERRAIN VEHICLE (ATV) OPERATION.** A person may operate an UTV or ATV 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 snowmobile operation as outlined in this chapter.

**1. Operational Restrictions:** 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 or ATV on sidewalks (except for snow removal), within city parks, bike/walking trails or on/through private property.
- f. Operator may operate the UTV or ATV on hard services only at Klock's Island Park.

**2. Negligence:** Owners and operators of UTV's or ATV'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)*

**3. Road Restrictions:** ATV's or UTV's shall not be operated on any portion of Hwy 150, including right of ways and ditches, except for direct crossing during times they can be legally operated.

**4. Penalty:** Any operator that violates any part of this subsection shall be issued a civil citation of:

- a. One-hundred dollars (\$100.00) for the first offense
- b. One-hundred twenty-five dollars (\$125.00) 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 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

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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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**CHAPTER 88**

**STORM WATER DRAINAGE SYSTEM UTILITY**

<b>88.01 Purpose</b>	<b>88.06 Revenues, Deposits, Disbursements</b>
<b>88.02 Definitions</b>	<b>88.07 Lien for Nonpayment</b>
<b>88.03 Storm Water Drainage System Utility Established</b>	<b>88.08 City Council</b>
<b>88.04 Rates</b>	<b>88.09 Prohibited Acts</b>
<b>88.05 Payment of Bills</b>	<b>88.10 Right of Entry</b>
	<b>88.11 Penalties</b>

**88.01 PURPOSE.** The purpose of this chapter is to establish a Storm Water Drainage System Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City’s storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

**88.02 DEFINITIONS.** For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. “Connection” means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. “Storm and surface water drainage system” means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
3. “Unit” means each household, each place of commerce/education/government/religion, or each industry, whether in a single building on a single

lot or in a multiple-use building on a single lot or multiple lot complex. Each unit shall be charged individually, but where the complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system charge for that complex.

4. "User" means any person who uses any property located in city limits that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

**88.03 STORM WATER DRAINAGE SYSTEM UTILITY ESTABLISHED.**

Pursuant to the authority of Section 384.84[5] of the Code of Iowa, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District. The Storm Water Drainage System shall be operated as a public utility with revenues derived subject to the provisions of this chapter. The Administrator of the Storm Water Drainage System shall be the City Administrator/Clerk and Public Works Director of the City of Fayette.

*(Code of Iowa, Sec. 384.84[1])*

**88.04 RATES.** Each user shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The service charges shall be billed as part of a combined service account which means a customer service account for the provision of two or more utility services. The Council may adopt rules, charges, rates, and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of one dollar (\$1.00) on all city utility bills. Property owned by the City is exempt from the requirements of this chapter.

**88.05 PAYMENT OF BILLS.** All Storm Water Drainage System charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions

contained in Sections 92.06 and 92.08, relating to lien exemptions and lien notices shall also apply in the event of a delinquent account.

*(Code of Iowa, Sec. 384.84)*

**88.06 REVENUES, DEPOSITS, AND DISBURSEMENTS.** The revenue derived from the rates and charges shall be deposited with the City Administrator/Clerk in the Storm Water Drainage Fund. The revenues shall be used solely for the purpose of paying the costs of administration, operation, and maintenance of the storm water drainage facilities, including street sweeping, and to pay the interest and principal on any bonds of the City which have been issued or shall be issued on account of the construction of said facilities, and to maintain an equipment and replacement fund for use at anytime in making repairs to the storm water drainage facilities.

**88.07 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84[4][a][1])*

**88.08 CITY COUNCIL.** The City Council has the following powers and duties related to the City of Fayette Storm Water Utility:

1. Operations and Maintenance. Operation and maintenance of the storm water management systems and facilities.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of this chapter.
3. Records. Maintain a complete and accurate record of all storm water management systems and facilities.
4. Policies. Recommend to the City Council policies to be adopted and enforced to implement the provisions of this chapter.

**88.09 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Storm Water Management Systems and Facilities. Maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, pipe, appurtenance or equipment which is part of the storm water management systems or facilities.
2. Illicit Discharges. No person shall throw, drain or otherwise discharge or cause to throw, drain, run or allow to seep or otherwise be discharged into the City of Fayette storm water management system and facilities, including but not limited to pollutants or waters containing any pollutants, other than storm water.

- 3. Manholes. Open or enter any manhole, structure or intake of the storm water system, except by authority of the Public Works Director.
- 4. Connection. Connection of any private storm water system to the City's storm water management system and facilities, except by authority of the Public Works Director.

**88.10 RIGHT OF ENTRY.** The Public Works Director and other authorized employees of the City of Fayette bearing proper credentials and identification shall be permitted to enter all private properties for the purpose of inspection, observation, measurement, sampling and testing all private storm water discharges directly or indirectly entering into any public storm water management system or facility in accordance with the provisions of this chapter.

**88.11 PENALTIES.** The following penalty provisions shall apply to violations of the Storm Water Utility chapters (of this Code of Ordinances).

- 1. Notice of Violation. Any person found to be violating any provisions of these chapters shall be served by the City of Fayette with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently remedy all violations.
- 2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 thereof, shall be subject to a civil penalty as set forth in the Schedule of Civil Penalties in Chapter 4.03 of this Code of Ordinances. Each day which said violation shall continue shall be deemed a separate offense.
- 3. Liability Imposed. Any person violating any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

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**CHAPTER 90**

**WATER SERVICE SYSTEM**

90.01 Definitions  
 90.02 Public Works Director's Duties  
 90.03 Mandatory Connections

90.11 Installation of Water Service Pipe  
 90.12 Responsibility for Water Service Pipe  
 90.13 Failure to Maintain



90.04 Abandoned Connections  
 90.05 Permit  
 90.06 Connection Charge  
 90.07 Compliance with Plumbing Code  
 90.08 Plumber Required  
 90.09 Excavations  
 90.10 Tapping Mains

90.14 Curb Stop  
 90.15 Interior Stop  
 90.16 Inspection and Approval  
 90.17 Completion by the City  
 90.18 Shutting off Water Supply  
 90.19 Operation of Curb Stop and Hydrants  
 90.20 Water Line Repair  
 90.21 Water Restrictions

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

1. "Business establishment" means a place where the public is customarily invited to assemble or enter for the purpose of engaging in commercial transactions, whether or not for profit.
2. "Combined service account" means a customer service account for the provision of two or more utility services.
3. "Customer" means, in addition to any person receiving water service from the City, and also means the owner of the property served if the immediate recipient of water is someone other than the property owner; as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
4. "Premises" means building(s) occupied by, together with grounds used in connection with, a residence or business establishment. A house or building may include one or more premises, as shown by configuration or use.
5. "Public Works Director" means the Public Works Director of the City or any duly authorized assistant, agent or representative.
6. "Residence" means a temporary or permanent place of human dwelling, abode or habitation, in or at which a person makes his or her home.
7. "Water main" means a water supply pipe provided for public or community use.
8. "Water service pipe" means the pipe from the water main to the building served.
9. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.
10. "Working hours" means the hours during which the City Hall is open — 8:00 a.m. to 4:00 p.m., Monday through Friday.

**90.02 PUBLIC WORKS DIRECTOR'S DUTIES.** The Public Works Director shall supervise the installation of water service pipes and their connection to the water main and enforce all

regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Public Works Director shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Public Works Director may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

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

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

**90.05 PERMIT.** Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within ninety (90) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters, following notice to the holder and opportunity for a hearing before the Council.

**90.06 CONNECTION CHARGE.** Before any permit is issued the person who makes the application shall pay a connection charge in an amount set by

resolution of the Council to reimburse the City for costs borne by the City in making water service available to the property served.

*(Code of Iowa, Sec. 384.84)*

**90.07 COMPLIANCE WITH PLUMBING CODE.** The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of Division 4, Plumbing Rules and Regulations, of the State Building Code.

**90.08 PLUMBER REQUIRED.** All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Public Works Director

shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Public Works Director shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Public Works Director shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall file a certificate of insurance with a minimum amount of \$100,000.

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Public Works Director and unless provision is made so that each house, building or premises may be shut off independently of the other, using the curb stop located in the public right-of-way, as required in Section 90.14.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Public Works Director

shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Public Works Director, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.

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

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

**90.11 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be type K copper tubing, one hundred forty (140) pound test P.V.C., or approved cast iron. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

**90.13 FAILURE TO MAINTAIN.** When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property. (Code of Iowa, Sec. 364.12[3a & h])

**90.14 CURB STOP.** There shall be installed within the public right-of-way a main shut-off valve on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Public Works Director. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

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

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

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

receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

**90.18 SHUTTING OFF WATER SUPPLY.** The Public Works Director may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Public Works Director has ordered the water to be turned on.

**90.19 OPERATION OF CURB STOP AND HYDRANTS.** It is unlawful for any person except the Public Works Director to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

**90.20 WATER LINE REPAIR.** The owner of any real estate shall comply with the following, at the owner's expense, upon being served with a written notice from the City Administrator/Clerk that repairs need to be made to a certain water line or lines serving said owner's property:

The owner shall file written proof with the City Administrator/ Clerk, within seventy-two (72) hours after service of such notice, that the owner has hired a competent plumber under terms of employment which specified that the water line repairs be completed within seven (7) days after service of the notice, which written proof shall include the name, address and telephone number of the plumber.

1. The owner shall see that all repairs are completed within seven (7) days after the notice is served on the owner, and shall file a completion report with the City Administrator/Clerk within twenty-four (24) hours after the repairs are completed. For good cause only, the owner may apply to the City Administrator/Clerk for one extension of seven (7) days for the repairs to be made.

In the event that more than one owner is served by one line from the City main, all owners shall be served, and the time limits shall apply based on the time the last notice is served. The notice by the City shall be served by personal service as provided in Iowa Rules of Civil Procedure Rule 56.1 by certified mail addressed to the owner's last known mailing address, return receipt requested, or by publication under Iowa Rules of Civil Procedure Rule 60 in compliance with Rule 60.1. Violation of this section is a municipal infraction and all provisions of Chapter 4 of this Code of Ordinances shall apply. Unless all requirements of this

section are fully complied with, the City will seek civil penalties, terminate service and/or seek alternative relief. The requirements of this section shall be attached to the notice.

**90.21 WATER RESTRICTIONS.** The Council may from time to time, by resolution, impose such restrictions upon customers using City water as the Council deems necessary for purposes of conserving water in order to protect public health. The restrictions shall be published in a newspaper of general circulation in the City to give notice to the public. The restrictions shall continue in effect for such period of time as provided in the resolution, or until the resolution is rescinded.

1. **Enforcement.** The Public Works Director is authorized to turn off the City water supply at the City shut-off valve serving any property on which a violation of the restrictions is found to exist, to terminate the use of water in violation of the restrictions. Such immediate turn off is declared to be an emergency to avoid further waste of water to preserve public health.

2. **Notice.** Upon turn off of the water, the Public Works Director shall promptly notify the customer by informing any adult person found on the property and in the event that no one is located, by posting a written notice on the front door of the property, informing the customer of the right to a hearing and fixing the time and place for such hearing.

**Hearing.** Each customer whose water is turned off under the provisions of this section shall be entitled to a hearing before the Public Utilities Board within twenty-four (24) hours after the water is turned off.

3. **Turn On Costs.** At the hearing, in the event it is determined there was not cause for turning off the water the same shall be promptly turned on without cost to the customer. Otherwise, the water will not be turned back on until the customer pays the turn on fee as set by Council resolution.

4. **Appeal.** Any decision of the Public Utilities Board may be appealed by the customer to the Council, and the customer will be provided prompt notice and hearing.

5. **Continued Violations.** In the event there are more than two violations on the same property of the same restrictions during the period of time provided in a specific resolution, the water will not be turned on until there is a hearing before the Public Utilities Board to determine if there is sufficient evidence to ensure that further violations will not occur. If the Board determines that such evidence does not exist, then the water will not be turned on until authorized by the Council. The

burden shall be upon the customer to make application to the Council, where the customer will be provided prompt notice and hearing.

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## CHAPTER 91

### WATER METERS

<p>91.01 Purpose</p> <p>91.02 Water Use Metered</p> <p>91.03 Fire Sprinkler Systems- Exception</p> <p>91.04 Location of Meters</p> <p>91.05 Meter Setting</p>	<p>91.06 Meter Costs</p> <p>91.07 Meter Repairs</p> <p>91.08 Right of Entry</p> <p>91.09 Meter Installation Fee</p> <p>91.10 Meter Testing</p> <p>91.11 Minimum Utility Charges</p>
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**91.01 PURPOSE.** The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

**91.02 WATER USE METERED.** All water furnished customers shall be measured through meters furnished by the City and installed by the Public Works Director.

**91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION.** Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Public Works Director. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

**91.04 LOCATION OF METERS.** All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

**91.05 METER SETTING.** The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Public Works Director and shall be of a design and construction approved by the Public Works Director.

**91.06 METER COSTS.** The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

**91.07 METER REPAIRS.** Whenever a water meter owned by the City is found to be out of order the Public Works Director shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

**91.08 RIGHT OF ENTRY.** The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

**91.09 METER INSTALLATION FEE.** There shall be a fee charged to the property owner for each new installation of a water meter in accordance with the schedule of such fees approved by resolution of the Council.

**91.10 METER TESTING.** The Public Works Director or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay the cost of the test.

**91.11 MINIMUM UTILITY CHARGES.** All charges for City utilities such as water usage, sewer usage, landfill, recycling, well, etc. will be billed to all actively metered customers with a minimum charge billed for these utilities. Where independent services have been permitted under a single meter, see Section 90.10(1), each independent service shall be subject to the comparative minimum charges.

**CHAPTER 92**  
**WATER RATES**

- 92.01 Service Charges
- 92.02 Rates For Service
- 92.03 Rates Outside the City
- 92.04 Billing for Water Service
- 92.05 Service Discontinued
- 92.06 Lien for Nonpayment
- 92.07 No Lien Exemption
- 92.08 Lien Notice
- 92.09 Customer Deposits
- 92.10 Temporary Vacancy

**92.01 SERVICE CHARGES.** Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

*(Code of Iowa, Sec. 384.84)*

**92.02 RATES FOR SERVICE.** The following rates shall be effective March 1, 2019, until adjusted by the City Council or the automatic 2% increase per year:

Water service shall be furnished at the following monthly rates within the City:

*(Code of Iowa, Sec. 384.84)*

Cubic Feet Used Per Month	Rate
First 150 cubic feet	\$15.00
All over 151 cubic feet	\$0.055 per cubic foot

All such rates shall automatically increase 2% per year on June 1<sup>st</sup>, unless changed by resolution of council.

Water and Sewer Infrastructure/Administration Fee of 2% of total cubic feet used per month, per account, with a minimum charge of \$3 per month and a maximum charge of \$100 per month.

It will be mandatory for all water meters that furnish water to customers have a working radio transmitter furnished by the City and installed by a City Public Works employee.

**92.03 RATES OUTSIDE THE CITY.** Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 92.02. No such customer, however, will be served unless the customer

shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

*(Code of Iowa, Sec. 364.4 & 384.84)*

**92.04 BILLING FOR WATER SERVICE.** Water service shall be billed as part of a combined service account, payable in accordance with the following:

1. Bills Issued. The City Administrator/Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the City Administrator/Clerk before 8 A.M. on the sixteenth (16th) day of the month or the following Monday if the 16<sup>th</sup> falls on a Saturday or Sunday.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of six percent (6%) of the amount due shall be added to each delinquent bill. The City Administrator/Clerk is authorized to waive the penalty in instances where circumstances seem to justify the waiver, but no more than one waiver per 12-month period is allowed per property or customer. Payments made timely but resulting in funds reversed due to lack of good funds will be regarded as a delinquent bill.
4. The City Administrator/Clerk may authorize a payment plan to delinquent accounts, provided the bill is completely paid, including the late payment penalty, by the 16<sup>th</sup> of the following month.
5. If a new customer has water turned on less than 13 days out of the first month, they will not be issued a minimum bill for combined service accounts. Their water and sewer usage for the first month will be added to the second month's usage and billed.
6. Income Offset Program. All combined service accounts whose amount due balances have remained delinquent for a period of no less than five months may be enrolled in the State of Iowa Income Offset Program. The City will assess a fee for enrolling an account in the Income Offset Program.
7. ACH customers, those where the City pulls the ACH payment to be drawn automatically, will not be assessed a late charge unless the payment is considered insufficient for payment. The non-sufficient funds payment (NSF) will be treated as a non-payment and subject to late fee charges and possible other charges associated with the NSF payment. ACH NSF payments must be paid by the customer to City Hall within five business days of notice and should be paid with cash. There is a \$25.00 charge for NSF payments.

**92.05 SERVICE DISCONTINUED.** Water service to delinquent customers shall be discontinued in accordance with the following:

*(Code of Iowa, Sec. 384.84)*

1. Notice. The City Administrator/Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested at least three (3) days preceding the shut off, the Council shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.
4. Fees. A fee, set annually by resolution of the Council, shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

**92.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the City Administrator/Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**92.07 LIEN EXEMPTION.** The lien for nonpayment shall not apply to residential rental properties where water service is separately metered and the charges therefor are paid directly by the tenant, providing the landlord has given written notice to the City Administrator/Clerk that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of occupancy, the date of occupancy, the mailing address for the tenant and the phone number for the tenant. If all information is not provided to the city by the landlord, then the account remains in the landlord's name. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the City Administrator/Clerk shall refund the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property.

*(Code of Iowa, Sec. 384.84)*

**92.08 LIEN NOTICE.** A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten (10) days prior to certification of the lien to the County Treasurer.

*(Code of Iowa, Sec. 384.84)*

**92.09 CUSTOMER DEPOSITS.** There shall be required, from every customer served who is not the owner of the premises, a deposit to be paid to the city in an amount not exceeding the usual cost of ninety days of water service.

(1) "Usual cost of ninety days of water service" as a deposit amount shall be calculated by the City Clerk, using City billing records, in the following manner. The Clerk shall:

(a) identify the four most-recent periods of continuous ninety-day water service previously provided to the premises for which a non-owning customer seeks service;

(b) add together the total of the charges for the four most-recent periods of continuous ninety-day water service; and

(c) divide by four.

(2) The quotient obtained from the calculation in (1) above shall be charged as service deposit to the tenant applying for water service to the identified premises.

(3) In the event that the specific premises lack four identifiable periods of billing history then the Clerk shall require a deposit that is the average of the cost of ninety days of water service provided to all residences in Fayette during the preceding quarterly billing period most recently completed.

*(Code of Iowa, Sec. 384.84)*

**92.10 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb stop when the property is expected to be vacant for an extended period of time. During a period when service is temporarily discontinued, as provided herein, there shall be no monthly minimum service charge if the water is off for 45 days or more and water usage stays under 150 cubic feet. The City will not drain pipes or pull meters for temporary vacancies.

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**CHAPTER 93****WELLHEAD PROTECTION REGULATIONS**

93.01 Definitions	93.06 Exceptions
93.02 Substances Regulated	93.07 Determination of Locations within Zones
93.03 Maps of Zones of Influence	93.08 Enforcement and Penalties
93.04 Restrictions within the Primary Protection Zone	93.09 Inspections
93.05 Restriction within the Secondary Protection Zone	93.10 Notice of Violation and Hearing
	93.11 Injunctive Relief

**93.01 DEFINITIONS:**

- (1) "Aquifer" - A rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
- (b) "Alluvium" - Sand, clay, etc., gradually deposited by moving water.
- (c) "Contamination" - The presence of any harmful or deleterious substances in the water supply.
- (d) "Groundwater" - Subsurface water in the saturated zone from which wells, springs, and groundwater runoff are supplied.
- (e) "Hazardous Substances" - Those materials specified in Section 128.03 of this ordinance.
- (f) "Flow System Boundaries" - A delineation criterion that uses groundwater divides, surface water bodies, or other hydrologic/physical features to delineate a Wellhead Protection Area.
- (g) "Labeled Quantities" - The maximum quantity of chemical as recommended on the label, for specific applications.
- (h) "Person" - Any natural person, individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
- (i) "Petroleum Product" - Fuels, (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, solvents, and other similar products.
- (j) "Pollution" - The presence of any substance (organic, inorganic, radiological, or biological) or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.

- (k) "Potable Water" - Water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards.
- (l) "Primary Containment" - The first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
- (m) "Public Utility" - Any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
- (n) "Secondary Containment" - The level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
- (o) "Shallow Well" - A well located and constructed in such a manner that there is not a continuous five-foot layer of low-permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.
- (p) "Time-Related Capture Zone" - The surface or subsurface area surrounding a pumping well(s) that will supply groundwater recharge to the well(s) within some specified period of time.
- (q) "Toxic Substance" - Any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.
- (r) "Transit" - The act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two (2) hours.
- (s) "Water Pollution" - The introduction in any surface or underground water, or any organic or inorganic deleterious substance in such quantities, proportions, and accumulations that are injurious to human, plant, animal, fish, and other aquatic life or property or that unreasonably interferes with the comfortable enjoyment of life or property or the conduct of business.
- (t) "Well" - A pit or hole sunk into the earth to reach a resource supply such as water.
- (u) "Well Field" - A tract of land that contains a number of wells for supplying water.



- (v) "Wellhead Protection Zones" - Zones delineated fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.
- (w) "Zone of contribution" - The area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

**93.02 SUBSTANCES REGULATED.**

The materials regulated by this ordinance shall consist of the following:

CFR = Code of Federal Regulation

- A. Substances listed in 40 CFR Section 302.4, **Designation of Hazardous Substances.**  
Chapter 89B of the Iowa Code
- B. Substances listed by the Iowa Labor Commissioner pursuant to **Hazardous Chemicals Risks-Right to Know Act.**
- C. Substances listed in 40 CFR Section 261, subparts A, B, C, and D, Federal Hazardous Waste List.

**93.03 MAPS OF ZONES OF INFLUENCE.**

- A. Maps - Zone of Protection maps and any amendments thereto are incorporated by reference and made a part of this ordinance. These maps shall be on file at City Hall. At the time of adoption of this ordinance the location of all wells in Fayette supplying potable water to the City Water System shall be located on the official Wellhead Protection Map with Primary Zone and Secondary Zone indicated.
- B. Map Maintenance - The Zone of Protection Maps may be updated on an annual basis. The basis for such an update may include, but is not limited to, the following:
  - 1. Changes in the technical knowledge concerning the aquifer.
  - 2. Changes in permitted pumping capacity of City wells.
  - 3. Addition of wells or elimination of existing wells.
  - 4. Designation of new well fields.
- C. Wellhead Protection Zones - The zones of protection indicated on the zone of protection maps are as follows:
  - 1. PRIMARY PROTECTION ZONE - The area within the two (2) year time- related capture zone of any well supplying potable water to the Fayette water system.

2. SECONDARY PROTECTION ZONE - The area within the ten (10) year time-related capture zone, excluding the Primary Protection Zone, of any well supplying potable water to the Fayette water system.

**93.04 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.**

A. Permitted Uses:

The following uses are permitted uses within the Primary Protection Zone.

Uses not listed are to be considered prohibited.

1. Industrial buildings within the two (2) year time-related capture zone, provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR "separation distances for wells" for sources of contamination is complied with. All sites must comply with the restrictions and covenants set by the Fayette City Council.
2. Playgrounds/Parks.
3. Wildlife areas, open spaces.
4. Lawns and Gardens.
5. Non-motorized trails, such as biking, skiing, nature and fitness trails.

B. Additional restrictions are as follows:

1. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.
2. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines as specified in this ordinance.
3. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.

**93.05 RESTRICTION WITHIN THE SECONDARY PROTECTION ZONE.**

A. Permitted Uses - The following uses are permitted in the Secondary Protection Zone. Uses not listed are to be considered prohibited.

1. All uses listed as permitted in the Primary Protection Zone.
2. Sewer - residential and commercial.

3. Above ground storage tanks when in compliance with State Fire Marshall's regulations.
4. Basement storage tanks.
5. Livestock grazing and field cropping activities.

B. Additional restrictions are as follows:

1. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Wellhead Protection Officer.
2. Any person(s) responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, any may be subject to fines specified in this ordinance.
3. Any person who stores, handles, produces or uses chemicals within the Secondary Protection Zone shall make available the relevant MSDS sheets to the Wellhead Protection Officer regardless of their status under Section 128.07.D.

**93.06 EXCEPTIONS:**

A. The following activities or uses are exempt from the provisions of this ordinance:

1. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
2. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
3. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
4. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the Secondary Protection Zone and the Zone of Sensitivity.
5. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
6. Consumer products located in the home which are used for personal, family, or household purposes
7. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.

8. The use of water treatment chemicals connected with the operation of the well or plant.
- B. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of the chapter. However, the storage and use of hazardous substances within the primary protection zone, must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance exemption is granted by the City Council.
- C. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this ordinance by law shall not be subject to the restrictions contained herein.
- D. All requests for permits or special exceptions in the Fayette Wellhead Protection Zones must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

#### **93.07 DETERMINATION OF LOCATIONS WITHIN ZONES.**

- A. In determining the location of properties within the zones depicted on the Zone of Protection Maps, the following rules shall apply:
1. Properties located wholly within one (1) zone reflected on the applicable Zone of Protection Map shall be governed by the restrictions applicable to that zone.
  2. For properties having parts lying within more than (1) zone as reflected on the applicable Zone of Protection Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

#### **93.08 ENFORCEMENT AND PENALTIES**

- A. The Public Works Director is designated as the Wellhead Protection Officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this ordinance.
- B. The Wellhead Protection Inspector(s) shall be the Public Works Director.
- C. No building permit shall be issued which is a violation of the Iowa DNR "SEPARATION DISTANCE FROM WELLS," a violation of this ordinance or a source of contamination for a city well.

D. No new underground tank(s) will be allowed for auxiliary fuel storage in the Primary or Secondary zones.

E. Any person, firm or corporation who fails to comply with the provisions of this chapter shall be subject to the provisions and penalties provided therein.

**93.09 INSPECTIONS:**

A. The Wellhead Protection Inspector(s) shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer or Inspector to inspect such premises.

B. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.

C. The Wellhead Protection Officer or Inspector shall inspect each city well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the Primary and Secondary Protection Zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under 128.06.B.2.

**93.10 NOTICE OF VIOLATION AND HEARING**

A. Whenever an officer or an inspector determines that there is a violation of this ordinance, he shall give notice thereof in the manner hereinafter provided.

1. A notice of violation shall:

- (a) Be in writing:
- (b) Be dated and signed by the officer or inspector:
- (c) Specify the violation or violations; and
- (d) State that said violation(s) shall be corrected within ten (10) days of the date on which the inspector issued the notice of violation.

2. Failure of the responsible person(s) to correct the violation within ten (10)days of the date of issue of the notice of violation shall result in the following fines:

- (a) First notice of violation:                 \$ 1,000.00
- (b) Second notice of violation:               \$ 5,000.00
- (c) Third notice of violation:                 \$ 10,000.00

**93.11 INJUNCTIVE RELIEF**

A. If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the Zone of Protection Maps, continues to operate in violation of the provisions of this ordinance, then, the City may file an action for injunctive relief in the court of jurisdiction.

**CHAPTER 95**  
**SANITARY SEWER SYSTEM**

95.01 Purpose	95.06 Service Outside the City
95.02 Definitions	95.07 Right of Entry
95.03 Public Works Director	95.08 Owner's Liability Limited
95.04 Prohibited Acts	95.09 Use of Easements
95.05 Sewer Connection Required	95.10 Special Penalties

**95.01 PURPOSE.** The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

**95.02 DEFINITIONS.** For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*(IAC, 567-69.3[1])*

3. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

*(IAC, 567-69.3[1])*

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Public Works Director" means the Public Works Director of the City or any authorized deputy, agent, or representative.
14. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
15. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
16. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
17. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
18. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.



19. "Sewer" means a pipe or conduit for carrying sewage.
20. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
21. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
22. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

**95.03 PUBLIC WORKS DIRECTOR.** The Public Works Director shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewers chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

**95.04 PROHIBITED ACTS.** No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

*(Code of Iowa, Sec. 716.1)*

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Public Works Director.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

**95.05 SEWER CONNECTION REQUIRED.** The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewers chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer. The City may require, by the passage of a resolution, connections from the public sewer to the edge of abutting property before any street, highway, avenue, alley or public ground is permanently improved. The connection shall be made by the owner of the abutting property. The owner shall be given notice of such requirements. The notice shall prescribe whether or not more than one connection is required to be made and the description of the lot or parcel of real estate to which the same is to be made and, in each instance, such owner shall be advised of the number of connections that are required to be made. The notice shall prescribe the time within which connections are to be made and this

time shall be final unless the time is extended by the City upon application made therefore, or if conditions should arise which would make it impossible for the property owners to make the connections required. The construction of subdivision sewers which are to be connected to and become a part of the public sewer system shall be done in conformance with the City specifications or specifications approved by the City. Plans shall be submitted to and approved by the City. A letter requesting permission to build shall be filed with and approved by the Council prior to commencement of work. Construction of said sewers shall be conducted in the presence of the City Engineer, the Public Works Director, or the Public Works Director's representative. A two-year maintenance bond shall be placed on file upon completion and prior to acceptance of the work. Permits from the Department of Natural Resources and any other appropriate agencies shall be obtained by the individual or entity constructing the sewer.

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

*(IAC, 567-69.3[3])*

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

**95.07 RIGHT OF ENTRY.** The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewers chapters. The Public Works Director or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**95.08 OWNER'S LIABILITY LIMITED.** While performing the necessary work on private property, the Public Works Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

**95.09 USE OF EASEMENTS.** The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**95.10 SPECIAL PENALTIES.** The following special penalty provisions shall apply to violations of these Sanitary Sewers chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**CHAPTER 96**

**BUILDING SEWERS AND CONNECTIONS**

96.01 Permit	96.06 Interceptors Required
96.02 Permit Fee	96.07 Sewer Tap
96.03 Plumber Required	96.08 Inspection Required
96.04 Excavations	96.09 Property Owner's Responsibility
96.05 Connection Requirements	96.10 Abatement of Violations

**96.01 PERMIT.** No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

**96.02 PERMIT FEE.** The person who makes the application shall pay a fee in an amount established by resolution of the Council to the City Administrator/Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

**96.03 PLUMBER REQUIRED.** All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Public Works Director shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewers chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Public Works Director shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Public Works Director shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a certificate of insurance with a minimum amount of \$100,000.00.

**96.04 EXCAVATIONS.** All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

**96.05 CONNECTION REQUIREMENTS.** Any connection with a public sanitary sewer must be made under the direct supervision of the Public Works Director and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Public Works Director, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.
4. **Water Lines.** When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least eighteen (18) inches above the top of the building sewer. No sewer or drain, including a basement floor drain, but excluding pump pit drains, shall be permitted within a ten-foot radius of any well. Sewers and drains farther than ten (10) feet but within fifty (50) feet of a private water supply well shall be of extra heavy cast iron soil pipe with rubber gasket joints or ductile iron pipe with rubber gasket or mechanical joints. Pipe in diameters greater than six (6) inches shall be ductile iron. Sewers and drains farther than fifty (50) feet but within seventy-five (75) feet of a private well shall be of cast iron soil pipe with rubber gasket joints, ductile iron pipe with rubber gasket or mechanical joints or vitrified clay pipe with rubber gasketed joints. Sewers and drains from seventy-five (75) feet to two hundred (200) feet of a public water supply shall be of equivalent construction.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line and at a uniform grade of not less than the following:
  - A. Four (4) inch lines: one-fourth ( $\frac{1}{4}$ ) inch per foot.
  - B. Six (6) inch lines: one-eighth ( $\frac{1}{8}$ ) inch per foot.
  - C. Minimum velocity: 2.50 feet per second with the sewer half full.
  - D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Public Works Director and shall be made only with properly curved pipe and fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
  - A. Clay sewer pipe - A.S.T.M. C-700 (extra strength).
  - B. Extra heavy cast iron soil pipe - A.S.T.M. A-74.
  - C. Cast and ductile iron water pipe - A.S.T.M. A-377.
  - D. P.V.C. - DWV - A.S.T.M. D-2665.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used, subject to the approval of the Public Works Director.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Public Works Director. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

14. Drain Traps. Every water closet, sink basin, wash tray, bath and every tub or set of tubs shall be separately and effectively trapped.

15. Strainers and Cleanouts. Cleanouts must be placed as near fixtures as practicable; all waste pipes shall be provided with strong metal strainers.

16. Overflow Discharges. The overflow pipes from tanks or other devices shall discharge into an open fixture properly trapped and must not on any account have a closed connection.

17. Water Closet Tanks. Water closet tanks shall have a flushing capacity sufficient to properly flush the water closet bowls with which they are connected.

18. Steam Exhaust Connections. No steam exhaust, blow off or drip pipe shall connect with the sanitary sewer or any building drain. Such pipes shall be discharged into a tank or condenser from which a suitable outlet into the building shall be provided.

**96.06 INTERCEPTORS REQUIRED.** Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Public Works Director, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living



quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. **Design and Location.** All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Public Works Director, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. **Construction Standards.** The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. **Maintenance.** All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

**96.07 SEWER TAP.** Connection of the building sewer into the public sewer shall be made at the "Y" or "T" branch, if such branch is available at a suitable location. If no properly located branch is available, the property owner shall at the owner's expense install a "Y" or "T" saddle with elastomeric gaskets and stainless steel clamps in the public sewer at the location specified by the Public Works Director. As an alternative flexible couplings may be used provided the material is specifically designed for the application, the couplings are correctly sized, the clamps are stainless steel and couplings meet the approval of the Public Works Director. Connections may be made to a manhole if special written permission is received from the Public Works Director and are in accordance with the Public Works Director's direction if such connection is approved.

**96.08 INSPECTION REQUIRED.** All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Public Works Director. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Public Works Director shall be notified and the Public Works Director shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Public Works Director refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

**96.09 PROPERTY OWNER'S RESPONSIBILITY.** All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**96.10 ABATEMENT OF VIOLATIONS.** Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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**CHAPTER 97**  
**USE OF PUBLIC SEWERS**

97.01 Storm Water	97.05 Restricted Discharges - Powers
97.02 Surface Waters Exception	97.06 Special Facilities
97.03 Prohibited Discharges	97.07 Control Manholes
97.04 Restricted Discharges	97.08 Testing of Wastes

**97.01 STORM WATER.** No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, to a storm sewer, combined sewer, or natural outlet.

**97.02 SURFACE WATERS EXCEPTION.** Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Public Works Director where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

**97.03 PROHIBITED DISCHARGES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. **Corrosive Wastes.** Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. **Solid or Viscous Substances.** Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. **Excessive B.O.D., Solids or Flow.** Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Public Works Director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

**97.04 RESTRICTED DISCHARGES.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Public Works Director that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Public Works Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. **High Temperature.** Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. **Fat, Oil, Grease.** Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Public Works Director for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Public Works Director as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
  - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
  - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**97.05 RESTRICTED DISCHARGES - POWERS.** If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Public Works Director may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

**97.06 SPECIAL FACILITIES.** If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or

flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

**97.07 CONTROL MANHOLES.** When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

**97.08 TESTING OF WASTES.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples). °

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**CHAPTER 98**

**PRIVATE ON-SITE WASTEWATER SYSTEMS**

<b>98.01 When Prohibited</b>	<b>98.06 Maintenance of System</b>
<b>98.02 When Required</b>	<b>98.07 Systems Abandoned</b>
<b>98.03 Compliance with Regulations</b>	<b>98.08 Disposal of Septage</b>
<b>98.04 Permit Required</b>	<b>98.09 Minimum Lot Area</b>
<b>98.05 Discharge Restrictions</b>	

**98.01 WHEN PROHIBITED.** Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

**98.02 WHEN REQUIRED.** Where a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with a private on-site wastewater treatment and disposal system complying with the provisions of this chapter.

**98.03 COMPLIANCE WITH REGULATIONS.** The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and to such additional requirements as are prescribed by the regulations of the County Board of Health.

*(IAC, 567-69.3[3])*

**98.04 PERMIT REQUIRED.** No person shall install or reconstruct a private on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

**98.05 DISCHARGE RESTRICTIONS.** It is unlawful to discharge any wastewater from a private on-site wastewater treatment and disposal system to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground unless such system has been approved by the County Board of Health.

*(IAC, 567-69.3[3])*



**98.06 MAINTENANCE OF SYSTEM.** The owner of a private on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

**98.07 SYSTEMS ABANDONED.** At such time as a public sewer becomes available to a property served by a private on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewers chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

**98.08 DISPOSAL OF SEPTAGE.** No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

**98.09 MINIMUM LOT AREA.** No permit shall be issued for any private on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than fifteen hundred (1500) square feet.

**CHAPTER 99**

**SEWER SERVICE CHARGES**

- |                                      |  |
|--------------------------------------|--|
| 99.01 Sewer Service Charges Required | 99.10 Accounting and Auditing                                    |
| 99.02 Rate                           | 99.11 Biennial Review of the Operation and Maintenance Charges   |
| 99.03 Special Rates                  | 99.12 Cost of Toxic Pollutants                                   |
| 99.04 Private Water Systems          | 99.13 Charges for Operation and Maintenance for Extraneous Flows |
| 99.05 Payment of Bills               | 99.14 Inconsistent Agreements                                    |
| 99.06 Lien for Nonpayment            | 99.15 Minimum Utility Charges                                    |
| 99.07 Special Agreements Permitted   | 99.16 Customer Deposits  |
| 99.08 Use of Funds                   |  |
| 99.09 Annual Notification            |  |

**99.01 SEWER SERVICE CHARGES REQUIRED.** Every customer shall pay to the City sewer service fees as hereinafter provided.

*(Code of Iowa, Sec. 384.84)*

**99.02 RATE.** Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed as follows:

1. First 150 cubic feet or lesser amount per month at \$23.00 (minimum bill).
2. All over 151 cubic feet per month at \$0.092 per cubic foot.

All such rates shall automatically increase 2% per year on June 1<sup>st</sup>, unless changed by resolution of council.

Water and Sewer Infrastructure/Administration Fee of 2% of total cubic feet used per month, per account, with a minimum charge of \$3 per month and a maximum charge of \$100 per month.

In no case shall the minimum service charge be less than \$23.00 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

**99.03 SPECIAL RATES.** Where, in the judgment of the Public Works Director and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Public Works Director and submitted to the Council for approval by resolution.

*(Code of Iowa, Sec. 384.84)*

**99.04 PRIVATE WATER SYSTEMS.** Customers whose premises are served by a private water system shall pay sewer charges of \$23.00 per month per residential user.

**99.05 PAYMENT OF BILLS.** All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**99.06 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the City Administrator/Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**99.07 SPECIAL AGREEMENTS PERMITTED.** No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council. Customers who contribute greater than normal domestic strength wastewater shall pay a surcharge for BOD and suspended solids as follows:

1. BOD - \$0.118 per pound;
2. Suspended Solids - \$0.0857 per pound.

**99.08 USE OF FUNDS.** All revenues and moneys derived from the operation of the sewer system shall be paid to and held by the City separate and apart from all other funds of the City, and all of said sums and all other funds and moneys incident to the operation of said system as may be delivered to the City shall be deposited in a separate fund designated the "Sanitary Sewer Fund Account" and the Council shall administer said fund in every respect in a manner provided by the Code of Iowa and all other laws pertaining thereto.

**99.09 ACCOUNTING AND AUDITING.** The City shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system.

**99.10 COST OF TOXIC POLLUTANTS.** Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the wastewater treatment works shall pay for such increased cost.

**99.11 CHARGES FOR OPERATION AND MAINTENANCE FOR EXTRANEIOUS FLOWS.** The costs of operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) shall be distributed among all users of the wastewater treatment facilities on the basis of flow volume of the users.

**99.12 INCONSISTENT AGREEMENTS.** The user charge system shall take precedence over any terms or conditions of agreements or contracts (such as pre-existing agreements reserving capacity in the City wastewater treatment works or pre-existing agreements regarding charges to be collected by the City in providing wastewater treatment services or reserving capacity) between the City and users (including industrial users, special districts, other municipalities or Federal agencies or installations) which are inconsistent with the requirements of Section 204(b)(1)(A) of the Water Pollution Control Act and implementing Federal regulations.

**99.13 MINIMUM UTILITY CHARGES.** All charges for City utilities such as water usage, sewer usage, landfill, recycling, well, etc. will be billed to all actively metered customers with a minimum charge billed for these utilities. Where independent services have been permitted under a single meter, see Section 90.10(1), each independent service shall be subject to the comparative minimum charges.

**99.14 CUSTOMER DEPOSITS.** There shall be required, from every customer served who is not the owner of the premises, or is purchasing the premises on contract, a deposit to be paid to the city.

1. Before the commencement of service, each customer from whom a deposit is required shall furnish a deposit of \$150.00. Deposits will not earn interest for the customer.
2. Upon termination of service, the deposit shall be applied to the customer's final bill, if the bill is not paid in full by the payment due date, to pay off any charges on the combined services bill. The remaining balance of the deposit, if any, will be sent to the customer listed on the account at a forwarding address provided by the customer, or upon request of the customer will be transferred to the customer's account within the Fayette service area for water service at a new address. If the transferred balance is insufficient to constitute the required deposit, the customer shall furnish the additional sum necessary before commencement of service at the new address.

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**CHAPTER 100**  
**WEST CLARK STREET**  
**SEWER CONNECTION CHARGES**

**100.01** Applicability

**100.04** Abatement of Charges

**100.02** Connection Charge

**100.05** Extensions

**100.03** Time of Payment

**100.01 APPLICABILITY.** The West Clark Street sewer was constructed as part of the City's Sanitary Sewer Improvements 1991 project. The West Clark Street sewer includes the sanitary sewer and manholes installed on West Clark Street from Highway 150 to Lover's Lane, a distance of approximately 430 feet, and the sanitary sewer and manholes installed on Lover's Lane south/southeast of Clark Street, a distance of approximately 580 feet. All connections made to the West Clark Street sewer as described herein, all connections made to any extensions of the said West Clark Street sewer and all connections that utilize or make use of the West Clark Street sewer or any portion thereof shall be subject to the connections charges established by this chapter. Connections made to the West Clark Street sewer shall be considered primary connections. Connections made to any extensions to the West Clark Street sewer and all connections that subsequently utilize or make use of the West Clark Street sewer shall be considered secondary connections.

**100.02 CONNECTION CHARGE.** For the purpose of this chapter, a connection shall be considered to be one service lateral, without regard to size, serving an individual structure, dwelling, business, etc. Multiple connection charges will be assessed if a single service lateral is installed to a multiple dwelling unit or a multiple enterprise facility. The connection charge for primary connections shall be \$2,500.00. The connection charge for secondary connections shall be \$1,000.00. The owner of the property being connected shall be responsible for payment of the connection charge.

**100.03 TIME OF PAYMENT.** The connection charge or charges shall be paid to the City prior to receiving a permit for making connection as required by this Code of Ordinances.

**100.04 ABATEMENT OF CHARGES.** Upon a clear and convincing showing by a land owner of hardship to said land owner or of benefit to the City, the Council may, in its discretion, determine to abate, partially or wholly, the assessment of the connection charge and grant relief therefrom.

**100.05 EXTENSIONS.** It is planned that the West Clark Street sewer is to be utilized to serve as much area as possible either through extensions of gravity sewers or pumping facilities and pressure lines. The Council may install or may participate in the installation of sewer extensions, pumping facilities and pressure lines, etc. Connections to extension sewers or sewers subsequently utilizing the West Clark Street sewers that involve City participation shall be subject to primary connection charges or charges that may be established.

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## CHAPTER 105

### SOLID WASTE CONTROL

<b>105.01 Purpose</b>	<b>105.07 Littering Prohibited</b>
<b>105.02 Definitions</b>	<b>105.08 Open Dumping Prohibited</b>
<b>105.03 Sanitary Disposal Required</b>	<b>105.09 Toxic and Hazardous Waste</b>
<b>105.04 Health and Fire Hazard</b>	<b>105.10 Waste Storage Containers</b>
<b>105.05 Open Burning Restricted</b>	<b>105.11 Prohibited Practices</b>
<b>105.06 Separation of Yard Waste Required</b>	<b>105.12 Sanitary Disposal Project Designated</b>

**105.01 PURPOSE.** The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

**105.02 DEFINITIONS.** For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee.

*(Code of Iowa, Sec. 455B.101[2b])*

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

*(Code of Iowa, Sec. 455B.361[2])*

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding

useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

*(IAC, 567-100.2)*

6. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

*(IAC, 567-20.2[455B])*

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

*(Code of Iowa, Sec. 455B.361[1])*

8. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

9. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

*(IAC, 567-100.2)*

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling.

11. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires and trade waste.

*(IAC, 567-20.2[455B])*

12. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

*(IAC, 567-100.2)*

13. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

*(IAC, 567-100.2)*



14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

*(Code of Iowa, Sec. 455B.301)*

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

*(Code of Iowa, Sec. 455B.301)*

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

*(Code of Iowa, Ch. 657)*

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING RESTRICTED.** No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

*(IAC, 567-23.2[455B] and 567-100.2)*

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

*(IAC, 567-23.2[3a])*

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3b])*

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

*(IAC, 567-23.2[3c])*

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

*(IAC, 567-23.2[3d])*

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources.

*(IAC, 567-23.2[3e])*

6. Back Yard Burning. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less.

*(IAC, 567-23.2[3f] and 567-20.2[455B])*

7. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3g])*

8. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

*(IAC, 567-23.2[3h])*

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

*(IAC, 567-23.2[3i])*

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

*(IAC, 567-23.2[2])*

**105.06 SEPARATION OF YARD WASTE REQUIRED.** All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or taken to the City yard waste site. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

**105.07 LITTERING PROHIBITED.** No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

*(Code of Iowa, Sec. 455B.363)*

**105.08 OPEN DUMPING PROHIBITED.** No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

*(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)*

**105.09 TOXIC AND HAZARDOUS WASTE.** No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

*(IAC, 567-100.2)*

*(IAC, 567-102.14[2] and 400-27.14[2])*

**105.10 WASTE STORAGE CONTAINERS.** Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide

and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

**105.11 PROHIBITED PRACTICES.** It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain

little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

**105.12 SANITARY DISPOSAL PROJECT DESIGNATED.** The sanitary landfill facilities operated by Fayette County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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**CHAPTER 106**  
**COLLECTION OF SOLID WASTE**

106.01 Collection Service	106.06 Right of Entry
106.02 Collection Vehicles	106.07 Insurance
106.03 Loading	106.08 Exceptions
106.04 Frequency of Collection	106.09 Fees
106.05 Bulky Rubbish	106.10 Lien for Nonpayment
	106.11 Minimum Utility Charges

**106.01 COLLECTION SERVICE.** The collection of solid waste within the City shall be by private contract with collectors.

**106.02 COLLECTION VEHICLES.** Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

*(IAC, 567-104.9[455B])*

**106.03 LOADING.** Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

**106.04 FREQUENCY OF COLLECTION.** All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

**106.05 BULKY RUBBISH.** Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

**106.06 RIGHT OF ENTRY.** Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this

chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

**106.07 INSURANCE.** No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that

person within the City without first filing a Certificate of Insurance with the City Administrator/Clerk showing evidence of satisfactory public liability insurance covering all operations pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury - \$100,000 per person; \$300,000 per occurrence.

Property Damage - \$ 50,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

**106.08 EXCEPTIONS.** Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

**106.09 FEES.** Monthly fees for recycling, landfill fees and surcharge fees shall be levied and collected in accordance with the following:

- 1. For each single-occupied dwelling unit:
  - A. Recycling ..... \$ 2.00
  - B. Landfill..... \$ 4.55
  - Total ..... \$ 6.55
  
- 2. For each commercial business, church and nonprofit service organization:
  - A. Recycling ..... \$ 2.00
  - B. Landfill..... \$ 4.55

Total ..... \$ 6.55

*(Ord. 418 - Jan. 97 Supp.)*

3. Residents of Maple Crest Manor and Upper Iowa University shall be charged per resident for recycling, landfill and surcharge.

4. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

**106.10 LIEN FOR NONPAYMENT.** The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for recycling, landfill fees and surcharges. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the City Administrator/Clerk to the County Treasurer for collection in the same manner as property taxes.

*(Code of Iowa, Sec. 384.84)*

**106.11 MINIMUM UTILITY CHARGES.** All charges for City utilities such as water usage, sewer usage, landfill, recycling, well, etc. will be billed to all actively metered customers with a minimum charge billed for these utilities. Where independent services have been permitted under a single meter, see Section 90.10(1), each independent service shall be subject to the comparative minimum charges.



**CHAPTER 107****YARD WASTE MANAGEMENT CHARGES****107.01 Charges Required****107.02 Fees****107.03 Minimum Utility Charges**

**107.01 YARD WASTE MANAGEMENT CHARGES REQUIRED.** Every customer shall pay to the City a fee for yard waste management as hereinafter provided.

**107.02 FEES.** Monthly fees for yard waste management shall be levied and collected in accordance with the following:

1. For each single-occupied dwelling unit, commercial business, church and non-profit service organization the fee shall be \$1.35 per month.
2. Upper Iowa University shall be charged based on the population count from the 2000 Census which is 363 people for a flat fee of \$302.50 per month.

Maple Crest Manor and Assisted Living Center shall be charged based on the population count from the 2000 Census which is 51 people for a flat fee of \$42.50 per month.

3. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served with water and/or sewer and shall be certified by the City Administrator/Clerk to the County Treasurer for collection in the same manner as property taxes.

**107.03 MINIMUM UTILITY CHARGES.** All charges for city services such as water usage, sewer usage, landfill, recycling, yard waste management, etc. will be billed to all actively metered customers with a minimum billed for these services. Where independent services have been permitted under a single meter, each independent service shall be subject to the comparative minimum charges.

[The next page is 581]

CHAPTER 110

**NATURAL GAS FRANCHISE**

<b>110.01 Franchise Granted</b>	<b>110.06 Regulation by City</b>
<b>110.02 Excavations</b>	<b>110.07 Quality of Gas</b>
<b>110.03 Interference with Public Improvements</b>	<b>110.08 Indemnification</b>
<b>110.04 Relocation of Grantee's Facilities</b>	<b>110.09 Franchise Terminated</b>
<b>110.05 Operation Standards</b>	<b>110.10 Term of Franchise</b>
	<b>110.11 Franchise Fee</b>

**110.01 FRANCHISE GRANTED**

Aquila, Inc., d/b/a Aquila Networks, its lessees, successors and assigns, hereinafter referred to as Grantee, are hereby granted a nonexclusive authority for a period of twenty-five (25) years (subject to cancellation at the end of the tenth (10<sup>th</sup>) year) to erect, construct, maintain and operate a gas distribution system, and any and all necessary mains, pipes, services and other appurtenances and equipment thereunto appertaining, in, upon, over, across and along the streets, alleys, bridges and public places in the City of Fayette, Iowa, hereinafter referred to as the City, for the transmission, distribution and sale of natural and/or mixed gas for lighting, heating, industrial and all other uses and purposes in the City for the purchase of transmitting, transporting and conveying such gas into, through or beyond the immediate limits of the City to other cities and customers.

**110.02 EXCAVATIONS**

Whenever the Grantee, in the construction or maintenance of its system or in the installation of any extension thereto, shall cut into or take up any pavement or shall make any excavation in any street, avenue, alley or public place within the corporate limits of the City, the same shall be done in a manner so as not to unreasonably interfere with the use of such thoroughfares by the public. The Grantee shall use such safeguards as may be necessary to prevent injury to persons or property during such construction work and upon its completion, all pavement shall be replaced in as good condition as it was before taken up. All excavations shall be refilled and all obstructions shall be removed at the expense of the Grantee and to the satisfaction of the City. In the event that the Grantee shall fail to comply with the provisions of this section after having been given reasonably notice, the City may do such work as may be needed to properly repair said thoroughfare and the cost thereof shall be repaid to the City by the Grantee.

**110.03 INTERFERENCE WITH PUBLIC IMPROVEMENTS**

The Grantee in constructing and maintaining said gas distribution system, and in entering and using said streets, highways, avenues, alleys and public places in the City and in laying

and installing mains, services, piping and related appurtenances and equipment, shall not in any manner interfere with or injure any improvement which the City now has or may hereafter have upon any of its streets, alleys, highways or public places.

#### **110.04 RELOCATION OF GRANTEE'S FACILITIES**

If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference and is not merely for the convenience of the City. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and is not merely for the convenience of the City or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of way until it receives the reasonable cost of relocating the same and the City provides a reasonable alternative location for such facilities.

Any person or corporation desiring to move a building or other structure along, or to make any unusual use of, any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense of moving Grantee's facilities and equipment in such location, and any damages incident thereto.

#### **110.05 OPERATION STANDARDS**

Grantee agrees for and on behalf of itself, its lessees, successors, and assigns, that for and during the term and period of this grant, it will maintain in the City an adequate, modern,

standard and sufficient gas system and equipment and to maintain and operate the same in a modern and adequate fashion. Grantee will from time to time during the term of the franchise make such enlargements and extensions of its distribution system as the business of the Grantee and the growth of the City justify, in accordance with its rules and regulations relating to customer connections and main and service line extensions currently in effect and on file from time to time with the State Utilities Board or other competent authority having jurisdiction in the premises; provided, however, that no obligation shall extend to, or be binding upon, the Grantee to construct or extend its mains or furnish natural gas or natural gas service within the City if Grantee is, for any reason, unable to obtain delivery of natural

gas at or near the corporate limits of the City or an adequate supply thereof to warrant the construction or extension of its mains, for the furnishing of such natural gas or gas service; and provided further, that when the amount of natural gas supplied to Grantee at or near the limits of the City is insufficient to meet the additional firm requirements of connected or new customers, Grantee shall have the right to prescribe reasonable rules and regulations for allocating the available supply of natural gas for such additional firm requirements to domestic, commercial and industrial customers in that order of priority.

#### **110.06 REGULATION BY CITY**

Grantee agrees for and on behalf of itself, its lessees, successors and assigns that all authority and rights in this Ordinance contained shall at all times be subject to all rights, power and authority now or hereafter possessed by the City to regulate the manner in which Grantee shall use the streets, alleys, bridges and public places of the City and concerning the manner in which Grantee shall use and enjoy the franchise herein granted; provided, however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and the City shall renegotiate the terms of this Ordinance in accordance with the action taken so as to allow Grantee to be made economically whole. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

#### **110.07 QUALITY OF GAS**

The Grantee shall, at all times, maintain an adequate pressure and supply of clean, standard gas of the British Thermal Unit heating value of not less than that prescribed in its rules and regulations relating thereto in effect and on file from time to time with the State Utilities Board or other competent authority having jurisdiction in the premises. Should the British Thermal Units fall below the limitation set forth in its appropriate rules and regulations, the rate then in effect shall be automatically and correspondingly lowered and reduced during any period or periods of time in which such lower British Thermal Unit value shall be furnished. The City shall have the privilege of requesting Grantee to furnish satisfactory proof of British Thermal Unit content of the gas.

#### **110.08 INDEMNIFICATION**

The Grantee shall hold the City harmless from any and all claims, and actions, litigation or damage arising out of the passage of this Ordinance or of the construction, erection, installation, maintenance or operation of its properties operated by authority of this Ordinance within the corporate limits of the City or the negligence of its employees in the operation thereof, including the Court costs and reasonable attorney fees in making defense against such claims; provided, however, that Grantee need not save the City harmless from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents. A copy of the process served upon the City shall be served by the City upon the

Grantee. The Grantee shall have the right to defend in the name of the City and to employ counsel for such purpose.

#### **110.09 FRANCHISE TERMINATED**

If Grantee fails to comply with any of the provisions in this Ordinance, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of any terms of this Ordinance, Grantee shall forfeit all rights and privileges granted by this Ordinance and all rights hereunder shall terminate, provided that said termination shall not take effect until the City shall carry out proceedings in accordance with the following. Before the City proceeds to cancel this Ordinance, it shall first serve a written notice upon Grantee setting forth in detail in such notice the alleged neglect or failure complained of, and Grantee shall have thirty (30) days thereafter in which to comply with the conditions of this grant and privilege. If at the end of such period the City deems that the conditions have not been complied with and that this Ordinance is subject to repeal by reasons thereof, the City shall enact a repealing ordinance setting out the grounds upon which said grant and privilege is to be canceled or terminated. If within thirty (30) days after the effective date of said repealing ordinance the Grantee shall not have instituted an action in any court of competent jurisdiction to determine whether the Grantee has violated the terms of this Ordinance, this Ordinance shall be canceled. If within such thirty (30) day period the Grantee does institute an action, as above provided, to determine whether or not the Grantee has violated the terms of this Ordinance, and prosecutes such action to final judgment with due diligence, then, in that event, if the court finds that this Ordinance is subject to cancellation by reason of the violation of its terms, this Ordinance shall terminate thirty (30) days after such final judgment is rendered.

#### **110.10 TERM OF FRANCHISE**

The right and authority herein granted shall be nonexclusive. The rights and privileges granted by this Ordinance shall remain in effect for a period of twenty-five (25) years from the effective date of this Ordinance hereof subject to cancellation at the end of the tenth (10<sup>th</sup>) year. Grantor, through its Clerk, shall notify Grantee in writing at least one hundred and eighty (180) days before the expiration of the initial term that Grantor, desires to review the terms of the franchise.

#### **110.11 FRANCHISE FEE**

Section 1. The City of Fayette, Iowa, (hereinafter referred to as the "Municipality") established a franchise fee on March 17, 2014 (Ordinance 480) on every natural gas company and every other person, firm or corporation, their successors and assigns, owning, operating, controlling, leasing or managing a natural gas plant or system and/or generating, manufacturing, selling, distributing or transporting natural gas (hereinafter referred to "Energy Provider"). Energy Provider shall collect from their customers located within the corporate limits of the City of Fayette and pay to the City an amount equal to one percent ( 1 %) of gross receipts Energy Provider derives from the sale, distribution or transportation of

natural gas delivered within the present limits of the Municipality. Gross receipts as used herein are revenues received from the sale, distribution or transportation of natural gas, after adjustment for the net write-off of uncollectible accounts and corrections of bills theretofore rendered.

Section 2. The amount paid by the Energy Provider shall be in lieu of, and Energy Provider shall be exempt from, all other fees, charges, taxes or assessments which the Municipality may impose for the privilege of doing business within the Municipality, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the Municipality imposes any such fee, charge, tax or assessment, the payment to be made by Energy Provider in accordance with this Ordinance shall be reduced in an amount equal to any such fee, charge, tax or assessment imposed upon the Energy Provider. Ad valorem property taxes imposed generally upon all real and personal property within the Municipality shall not be deemed to affect Energy Provider's obligations under this Ordinance.

Section 3. Energy Provider shall report and pay any amount payable under this Ordinance on a quarterly basis. Such payment shall be made no more than thirty (30) days following the close of the period for which payment is due. Initial and final payments shall be prorated for the portions of the periods at the beginning and end of any franchise granted by the City of Fayette, Iowa, to an Energy Provider.

Section 4. Energy Provider shall list the franchise fee collected from customers as a separate item on bills for utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, Energy Provider will no longer be obligated to collect and pay the franchise fee until an alternate lawful franchise fee can be negotiated and implemented. In addition, with prior approval of City, Energy Provider may reduce the franchise fee payable for natural gas or electric delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

Section 5. Within ten (10) days of the date of this ordinance, the Municipality shall provide the Energy Provider with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist Energy Provider in determining whether their customers reside within the Municipality's corporate limits. The Map along with Energy Provider's Geographic Information System ("GIS") mapping information shall serve as the sole basis for determining Energy Provider's obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the Municipality's corporate limits are changed by annexation or otherwise, it shall be the Municipality's sole responsibility to (a) update the Map so that such changes are included therein, and (b) provide the updated Map to the Energy Provider. An Energy Provider's obligation to collect and pay the franchise fee from customers within an annexed area shall not commence until the later: (a) of sixty (60) days after such Energy Provider's receipt from the Municipality of an updated Map including such annexed area, or (b) such time after such Energy Provider's receipt from the Municipality of an updated Map

including such annexed area as is reasonably necessary for such Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

Section 6. The City shall provide copies of annexation ordinances to Energy Provider on a timely basis to ensure appropriate Franchise fee collection from customers within the corporate limits of the city as set forth in Section 4 above.

Section 7. The Municipality shall have access to and the right to examine, during normal business hours, Energy Provider's books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the Municipality shall not exercise such right more than twice per calendar year. If it is determined that a mistake was made in the payment of any franchise fee required hereunder, such mistake shall be corrected promptly upon discovery such that any under-payment by an Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by an Energy Provider shall be deducted from the next payment of such franchise fee due by such Energy Provider to the Municipality; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

**EDITOR'S NOTE**

Ordinance No. 454 adopting a gas franchise for the City was passed and adopted on April 17, 2006 for 25 years until April 16, 2031.



## CHAPTER 111

### ELECTRIC FRANCHISE

**111.01 Franchise Granted****111.02 Right-of-way Granted/Indemnity****111.03 Restoration of Property****111.04 Locate and Relocate Facilities****111.05 Trees****111.06 Extension of Service****111.07 Alternative Energy/Continuous Service****111.08 Franchise Fee**

**111.01 FRANCHISE GRANTED.** There is hereby granted to INTERSTATE POWER AND LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

**111.02 RIGHT-OF-WAY GRANTED/INDEMNITY.** The poles, lines, wires, circuits, and other appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages to the

extent arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

**111.03 RESTORATION OF PROPERTY.** In making any excavations in any street, alley, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, and shall back fill all openings in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to

restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition.

**111.04 LOCATE AND RELOCATE FACILITIES.** The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement.

If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment.

The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public place, the City shall at its cost and expense obtain easements for existing Company facilities. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten years.

**111.05 TREES.** The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to

maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

**111.06 EXTENSION OF SERVICE.** During the term of this franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability.

**111.07 ALTERNATIVE ENERGY/CONTINUOUS SERVICE.** The Company, upon request of the City, shall explore with the City agreements that are mutually beneficial, and economically feasible to both parties, for interconnection of alternative energy electrical facilities, use of facilities and purchase of excess alternatively produced power, in a timely manner, adhering to all Federal, State or local codes, rules and regulations, and Company tariffs in effect at the time of agreement.

Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

**111.08 FRANCHISE FEE.** In its monthly billing the Company shall include a franchise fee of one percent (1%) on the gross revenue from the sale of electricity to the Company's electric customers located within the corporate limits of the City.

a. The franchise fee shall be applied to all customers' bills in accordance with Iowa Code Chapter 364.2 and 423B.5. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

b. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of the amended tax rider tariff from the Iowa Utilities Board.

c. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

d. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than ninety (90) days from receipt of the information required of the City to implement the franchise fee.

The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

e. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

f. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

g. The City shall give the Company a minimum 6-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 9 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such Ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than ninety (90) days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the city council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

h. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

i. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

j. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

A. The obligation to collect and remit the fee imposed by this Ordinance is modified if:

1. Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this Ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

3. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within sixty (60) days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this Ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee Ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this Ordinance is repealed, effective as of the date specified below with no liability therefor, if:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or
2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or
3. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

k. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this Ordinance.

l. The City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

**EDITOR'S NOTE:**

Ordinance No. 479 adopting an electric franchise for the City was passed and adopted on March 17, 2014 and is in effect until March 16, 2039.

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**CHAPTER 120**

**LIQUOR LICENSES AND WINE AND BEER PERMITS**

**120.01 License or Permit Required**

**120.04 Action by Council**

**120.02 General Prohibition**

**120.05 Prohibited Sales and Acts**

**120.03 Investigation**

**120.01 LICENSE OR PERMIT REQUIRED.** No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control

license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

*(Code of Iowa, Sec. 123.22, 123.122 & 123.171)*

**120.02 GENERAL PROHIBITION.** It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

*(Code of Iowa, Sec. 123.2, 123.39 & 123.50)*

**120.03 INVESTIGATION.** Upon receipt of an application for a liquor license, wine or beer permit, the City Administrator/Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

*(Code of Iowa, Sec. 123.30)*

**120.04 ACTION BY COUNCIL.** The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

*(Code of Iowa, Sec. 123.32 [2])*

**120.05 PROHIBITED SALES AND ACTS.** A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

*(Code of Iowa, Sec. 123.49 [1])*

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m.



on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

*(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)*

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

*(Code of Iowa, Sec. 123.49 [2c])*

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

*(Code of Iowa, Sec. 123.49 [2f])*

5. Sell, give or otherwise supply any alcoholic beverage, wine or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine or beer.

*(Code of Iowa, Sec. 123.49 [2h])*

6. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

*(Code of Iowa, Sec. 123.49 [2i])*

7. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2a])*

8. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

*(Code of Iowa, Sec. 123.49 [2j])*

9. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

*(Code of Iowa, Sec. 123.49 [2d])*

10. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

*(Code of Iowa, Sec. 123.49 [2e])*

11. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

*(Code of Iowa, Sec. 123.49 [2g])*



**CHAPTER 121**  
**CIGARETTE PERMITS**

121.01 Definitions

121.02 Permit Required

121.03 Application

121.04 Fees

121.05 Issuance and Expiration

121.06 Refunds

121.07 Persons Under Legal Age

121.08 Permit Suspension and Revocation

121.09 Effect of Revocation

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

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

*(Code of Iowa, Sec. 453A.1[2])*

2. "Place of business" means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.

*(Code of Iowa, Sec. 453A.1[17])*

3. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.

*(Code of Iowa, Sec. 453A.1[19])*

4. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

*(Code of Iowa, Sec. 453A.1[23])*

**121.02 PERMIT REQUIRED.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

*(Code of Iowa, Sec. 453A.13)*

**121.03 APPLICATION.** A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the City Administrator/Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

*(Code of Iowa, Sec. 453A.13)*

**121.04 FEES.** The fee for a retail cigarette permit shall be as follows:

*(Code of Iowa, Sec. 453A.13)*

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

**121.05 ISSUANCE AND EXPIRATION.** Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year.

**121.06 REFUNDS.** A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 of the Code of Iowa.

*(Code of Iowa, 453A.13)*

**121.07 PERSONS UNDER LEGAL AGE.** No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The

provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine.

*(Code of Iowa, Sec. 453A.2 and 453A.36[6])*

**121.08 PERMIT SUSPENSION AND REVOCATION.** If a retailer or employee of a retailer violates the provisions of Section 121.07, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the violator's permit shall be suspended for a period of thirty (30) days.
3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.
4. For a fourth violation within a period of five (5) years, the violator's permit shall be revoked.

The City Administrator/Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

*(Code of Iowa, Sec. 453A.22)*

**121.09 EFFECT OF REVOCATION.** If a permit is revoked, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

*(Code of Iowa, Sec. 453A.22[3])*

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**CHAPTER 122**  
**PEDDLERS, SOLICITORS AND TRANSIENT**  
**MERCHANTS**

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

**122.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.



**122.03 LICENSE REQUIRED.** Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

**122.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the City Administrator/Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee in an amount established by resolution of the Council shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122.05 LICENSE FEES.** License fees in amounts established by resolution of the Council shall be paid to the City Administrator/Clerk prior to the issuance of any license.

**122.06 BOND REQUIRED.** Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the City Administrator/Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

**122.07 LICENSE ISSUED.** If the City Administrator/Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

**122.08 DISPLAY OF LICENSE.** Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

**122.09 LICENSE NOT TRANSFERABLE.** Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**122.10 TIME RESTRICTION.** All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m.

**122.11 REVOCATION OF LICENSE.** After notice and hearing, the City Administrator/Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122.12 NOTICE.** The City Administrator/Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122.13 HEARING.** The City Administrator/Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the City Administrator/Clerk may proceed to a determination of the complaint.

**122.14 RECORD AND DETERMINATION.** The City Administrator/Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the City Administrator/Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122.15 APPEAL.** If the City Administrator/Clerk revokes or refuses to issue a license, the City Administrator/Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the City Administrator/Clerk by a majority vote of the Council members present and the City Administrator/Clerk shall carry out the decision of the Council.

**122.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122.17 REBATES.** Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for

which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

**122.18 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the North Fayette Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

**122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the City Administrator/Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the City Administrator/Clerk finds that the organization is a bona fide charity or nonprofit organization the City Administrator/Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the City Administrator/Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

**CHAPTER 123**  
**HOUSE MOVERS**

123.01 Definitions	123.07 Permit Issued
123.02 Permit Required	123.08 Public Safety
123.03 Application	123.09 Time Limit
123.04 Bond Required	123.10 Removal by City
123.05 Insurance Required	123.11 Protect Pavement
123.06 Permit Fee	123.12 Above Ground Wires

**123.01 DEFINITIONS.** As used in this chapter, unless the context shall require otherwise, the following shall have the meanings ascribed to them by this section:

1. "House" means any building or similar structure which (a) is designed and constructed to rest upon a foundation, to have walls and a ceiling and/or roof, and which (b) is intended for human use.
2. "House mover" means any person who undertakes, by any method, to move a house from fixed foundations and transport the same upon, over or across public rights-of-way or other public property.
3. "Primary structure" means any house, as defined in this section, as measured at the point of greatest distance, which exceeds any of the following limits: length of 20 feet; breadth of 12 feet; or height of 12 feet. The longest outer-wall-to-outer-wall measurement of the house shall be deemed to be its "length" for purposes of this section.
4. "Secondary structure" means any house, as defined in this section, all dimensions of which, as measured at the point of greatest distance, do not exceed the limits set in subsection 3.

**123.02 PERMIT REQUIRED.** Any person who desires to engage in the activity of house mover, as defined in this chapter, and who desires to move a primary structure must first apply for and receive a valid house mover's permit from the City. If more than one primary structure is to be moved, individual permits must be issued corresponding to each primary structure. The act of moving a primary structure without a valid permit to do so shall be unlawful and shall be treated as a municipal infraction. The act of moving a secondary structure requires no house mover's permit.

**123.03 APPLICATION.** Application for a house mover's permit shall be made in writing to the City Administrator/Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, Public Works Director, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

**123.04 BOND REQUIRED.** The applicant shall post with the City Administrator/Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

**123.05 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

**123.06 PERMIT FEE.** A permit fee in an amount set annually by resolution of the Council shall be payable at the time of filing the application with the City Administrator/Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

**123.07 PERMIT ISSUED.** Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the City Administrator/Clerk shall issue a permit.

**123.08 PUBLIC SAFETY.** At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning

signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

**123.09 TIME LIMIT.** No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

**123.10 REMOVAL BY CITY.** In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

**123.11 PROTECT PAVEMENT.** It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

**123.12 ABOVE GROUND WIRES.** The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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## CHAPTER 135

### STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.07 Washing Vehicles
135.02 Obstructing or Defacing	135.08 Burning Prohibited
135.03 Placing Debris On	135.09 Excavations
135.04 Playing In	135.10 Maintenance of Parking or Terrace
135.05 Traveling on Barricaded Street or Alley	135.11 Failure to Maintain Parking or Terrace
135.06 Use for Business Purposes	135.12 Dumping of Snow
	135.13 Driveway Culverts

**135.01 REMOVAL OF WARNING DEVICES.** It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

*(Code of Iowa, Sec. 716.1)*

**135.02 OBSTRUCTING OR DEFACING.** It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

*(Code of Iowa, Sec. 716.1)*

**135.03 PLACING DEBRIS ON.** It is unlawful for any person to throw or deposit on any street or alley any leaves, grass, trash, garbage, rubbish, litter, offal, cans, or any substance likely to injure any person, animal or vehicle such as glass, glass bottle, nails, tacks, wire or any like matter. The violation of this ordinance is a warning for the first year (April 1, 2011 to March 31, 2012), then a municipal citation in the amount of \$50.00 issued by the Public Works Department. The penalty shall be payable within 72 hours of receipt. If the penalty is not paid, it may be assessed to the property as a lien.

*(Code of Iowa, Sec. 321.369)*

**135.04 PLAYING IN.** It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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



**135.05 TRAVELING ON BARRICADED STREET OR ALLEY.** It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

**135.06 USE FOR BUSINESS PURPOSES.** It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Police Chief.

**135.07 WASHING VEHICLES.** It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

**135.08 BURNING PROHIBITED.** No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

**135.09 EXCAVATIONS.** No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
  - B. A statement of the purpose, for whom and by whom the excavation is to be made;
  - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
  - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond, in an amount as established by resolution of the Council, issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
  - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
  - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Permit Fee. A permit fee in an amount set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

11. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

12. Public Works Director. The Public Works Director or any other person designated by the Council shall have final authority over all excavation activity within the City. The Public Works Director has discretionary authority to direct excavations in progress. An excavation project is not deemed completed until the person responsible for the excavation has received the Public Works Director's approval of the work. The Public Works Director shall deem the work complete when the post-excavation condition of the property surface is substantially equivalent to its pre-excavation condition.

**135.10 MAINTENANCE OF PARKING OR TERRACE.** It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

**135.11 FAILURE TO MAINTAIN PARKING OR TERRACE.** If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

**135.12 DUMPING OF SNOW.** It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

**135.13 DRIVEWAY CULVERTS.** The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

**135.14 MAILBOX REGULATIONS.** The City Public Works Director shall have the discretion of determining where a mailbox is located within the city right-of-way.

1. The front opening of a mailbox shall be 12 inches from the face of the curb and 48 inches from the edge of the pavement on a non-curbed street.
2. If a mailbox is damaged by the windrow (wall of flying snow) hurled by a passing snow plow, the city will not repair or replace the mailbox.
3. If a legally placed mailbox is damaged by the city snow plow, it will be repaired by the city or, if damaged beyond repair, replaced with a standard mailbox set on a standard Wolmanized 4 x 4 wooden post; or, at the resident's discretion, the city will reimburse the resident the cost of a standard mailbox and a standard post toward the resident's own replacement (not repair) of the damaged mailbox. The city will replace the damaged mailbox within a reasonable period of time, and until the time of replacement the resident will pick up any mail at the post office.
4. Before installing or repairing a mailbox, a property owner shall contact the local Postmaster and shall meet US Postal Service regulations.
5. If the Post Office says a mailbox is required to go on the city right-of-way adjacent to a different property other than the owner of the mailbox, then the person installing the mailbox shall ask permission from the property owner before the mailbox is installed.
6. Existing mailboxes are grandfathered in as of the date of approval of this ordinance until the mailbox needs replacing.



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**CHAPTER 136**  
**SIDEWALK REGULATIONS**

136.01 Purpose	136.12 Awnings
136.02 Definitions	136.13 Encroaching Steps
136.03 Removal of Snow, Ice and Accumulations	136.14 Openings and Enclosures
136.04 Responsibility for Maintenance	136.15 Fires or Fuel on Sidewalks
136.05 City May Order Repairs	136.16 Defacing
136.06 Sidewalk Construction Ordered	136.17 Debris on Sidewalks
136.07 Permit Required	136.18 Merchandise Display
136.08 Sidewalk Standards	136.19 Sales Stands
136.09 Barricades and Warning Lights	136.20 Grates
136.10 Failure to Repair or Barricade	136.21 Gutters and Downspouts
136.11 Interference with Sidewalk Improvements	

**136.01 PURPOSE.** The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

**136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.** It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours after it snows, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2b & e])*

**136.04 RESPONSIBILITY FOR MAINTENANCE.** It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

**136.05 CITY MAY ORDER REPAIRS.** If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

*(Code of Iowa, Sec. 364.12[2d & e])*

**136.06 SIDEWALK CONSTRUCTION ORDERED.** The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

*(Code of Iowa, Sec. 384.38)*

**136.07 PERMIT REQUIRED.** No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said



removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

**136.08 SIDEWALK STANDARDS.** Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
  - A. Residential and B-2 Business District sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
  - B. B-1 Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
  - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ( $\frac{1}{2}$ ) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter ( $\frac{1}{4}$ ) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.
11. Ramps for Handicapped. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.

*(Code of Iowa, Sec. 216C.9)*

**136.09 BARRICADES AND WARNING LIGHTS.** Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

**136.10 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

**136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

**136.12 AWNINGS.** It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

**136.13 ENCROACHING STEPS.** It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

**136.14 OPENINGS AND ENCLOSURES.** It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

**136.15 FIRES OR FUELS ON SIDEWALKS.** It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

**136.16 DEFACING.** It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

*(Code of Iowa, Sec. 716.1)*

**136.17 DEBRIS ON SIDEWALKS.** It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

**136.18 MERCHANDISE DISPLAY.** It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

**136.19 SALES STANDS.** It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

**136.20 GRATES.** All grates used on sidewalks shall be kept in good repair by the abutting property owner and on a level of the walk, made of substantial material and so constructed as not to cause any interference with foot traffic thereon.

**136.21 GUTTERS AND DOWNSPOUTS.** All eaves and gutters shall be so constructed as not to allow same to run water from roofs onto sidewalks.

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## CHAPTER 137

### VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.04 Findings Required

137.02 Planning and Zoning Commission

137.05 Disposal of Vacated Streets or Alleys

137.03 Notice of Vacation Hearing

137.06 Disposal by Gift Limited

**137.01 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**137.02 PLANNING AND ZONING COMMISSION.** Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

*(Code of Iowa, Sec. 392.1)*

**137.03 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**137.04 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

**137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

*(Code of Iowa, Sec. 364.7)*

**137.06 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose.

*(Code of Iowa, Sec. 364.7[3])*

<b>EDITOR'S NOTE</b>			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
	June, 1884		
57	May 15, 1893		
58	August 1, 1893		
104	October 5, 1914		
117	June 15, 1917		
125	February 6, 1922		
139	December 1, 1930		
160	July 7, 1942		
164	May 7, 1945		
174	May 2, 1949		
178	June 30, 1950		
180	June 30, 1950		
	December 7, 1953		
	September 11, 1959		
208	December 29, 1959		
210	May 2, 1960		

229	January 3, 1967		
255	July 16, 1973		
257	October 15, 1973		
328	June 4, 1990		
331	July 2, 1990		
363	July 1, 1991		
Res. 9635	September 3, 1996		
416	December 2, 1996		

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**CHAPTER 138**  
**STREET GRADES**

**138.01 Established Grades**

**138.02 Record Maintained**

**138.01 ESTABLISHED GRADES.** The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

**138.02 RECORD MAINTAINED.** The City Administrator/Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

<b>EDITOR'S NOTE</b>			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
92	October 5, 1908		
99	August 8, 1910		
117	June 15, 1917		
119	May 6, 1918		
166	July 30, 1946		
170	June 2, 1947		
406	February 6, 1995		
415	July 15, 1996		



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**CHAPTER 139**  
**NAMING OF STREETS**

**139.01 Naming New Streets**

**139.04 Official Street Name Map**

**139.02 Changing Name of Street**

**139.05 Revision of Street Name Map**

**139.03 Recording Street Names**

**139.01 NAMING NEW STREETS.** New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

**139.02 CHANGING NAME OF STREET.** The Council may, by resolution, change the name of a street.

**139.03 RECORDING STREET NAMES.** Following official action naming or changing the name of a street, the City Administrator/Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

*(Code of Iowa, Sec. 354.26)*

**139.04 OFFICIAL STREET NAME MAP.** Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Fayette, Iowa."

**139.05 REVISION OF STREET NAME MAP.** If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council,

the following changes were made in the Official Street Name Map: (brief description),”  
which entry shall be signed by the Mayor and attested by the City Administrator/Clerk.

**CHAPTER 140**  
**CONTROLLED ACCESS FACILITIES**

140.01 Exercise of Police Power

140.02 Definition

140.03 Right of Access Limited

140.04 Access Controls Imposed

140.05 Unlawful Use of Controlled Access Facility

140.06 Permitted Access Points

140.07 Parking Restricted

140.08 Street and Alley Approaches Closed

**140.01 EXERCISE OF POLICE POWER.** This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

*(Code of Iowa, Sec. 306A.1)*

**140.02 DEFINITION.** The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

*(Code of Iowa, Sec. 306A.2)*

**140.03 RIGHT OF ACCESS LIMITED.** No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

*(Code of Iowa, Sec. 306A.4)*

**140.04 ACCESS CONTROLS IMPOSED.** There are hereby fixed and established controlled access facilities within the City, described as follows:

*(Code of Iowa, Sec. 306A.3)*

1. Project No. F-FG-59(7). On the Primary Road System extension improvement, Project No. F-FG-59(7), Primary Road No. Iowa 150, within the City, described as follows:

Beginning at Station 798+13.0, the south corporation line, thence in a northerly direction 5,572.0 feet to Station 853+85.0, the north corporation line, identified as Project F-FG-59(7) and to any future extension of the City Limits along said Primary Road No. Iowa 150,

regulating access to and from Station 798+13.0 to Station 853+85.0 on the east and west sides, regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-FG-59(7), on file in the office of the City Administrator/Clerk.

2. Project No. F-FG-59(9). On the Primary Road System extension improvement, Project No. F-FG-59(9), Primary Roads No. Iowa 150 and No. Iowa 93, within the City, described as follows:

Beginning at Station 730+00, thence easterly 500.0 feet to Station 735+00 on Primary No. 93 and identified as a portion of Project F-FG-59(9),

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-FG-59(9), on file in the office of the City Administrator/Clerk.

3. Project No. FN-93-2( )33-04. On the Primary Road System extension improvement, Project No. FN-93-2( )33-04, Primary Road No. No. Iowa 93, within the City, described as follows:

Beginning at the west corporation line Station 716+89 to Station 731+50,

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-93-2( )33-04, on file in the office of the City Administrator/Clerk.

**140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY.** It is unlawful for any person to:

*(Code of Iowa, Sec. 306A.3 and 321.366)*

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.

4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

5. Signs on Public Property. No signboards will be allowed on public property along said highway.

6. Signs on Private Property. No signboards will be allowed on private property when such signboards will obstruct the view of any portion of the public highway or street or railroad track.

**140.06 PERMITTED ACCESS POINTS.** Points of access are hereby permitted as follows:

*(Code of Iowa, Sec. 306A.4)*

1. Project No. F-FG-59(7). The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-FG-59(7) is hereby recorded as follows:

STATION	SIDE	PURPOSE
799+00	west	Farm entrance
799+00	east	Field entrance
841+56	east	Residential entrance

2. Project No. F-FG-59(9). The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-FG-59(9) is hereby recorded as follows:

STATION	SIDE	WIDTH	PURPOSE
730+09	south	24 feet	Residential
730+75	north	18 feet	Residential
731+36	south	18 feet	Residential
733+62	north	35 feet	County yard
734+32	north	35 feet	County yard

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**140.07 PARKING RESTRICTED.** The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.
3. Intersection. Parking shall be prohibited on the Primary Road Extensions a distance of fifty-five (55) feet in advance of the near crosswalk and a distance of twenty-two (22) feet beyond the far crosswalk.
4. Project No. F-FG-59(9). Parking of any nature is prohibited on Project No. F-FG-59(9) on Iowa No. 93, on both sides, from Station 730+00 to Station 735+00.
5. Project No. FN-93-2( )33-04. Parking of any nature is prohibited on Project No. FN-93-2( )33-04 on Iowa No. 93, on both sides, from Station 716+89 (WCL) to Station 731+50.
6. Project No. F-FG-59(7). Parking of any nature is prohibited on Project No. F-FG-59(7) on Iowa No. 150, on both sides, from Station 798+13.0 to Station 853+85.0.

**140.08 STREET AND ALLEY APPROACHES CLOSED.** The following street and alley approaches to Primary Road No. 150, as described in Project No. F-FG-59(7), shall be closed.

1. Right and left approaches of local road at Station 816+80.
2. Right and left approaches of alley at Station 834+98.
3. Right and left approaches of street at Station 836+37.
4. Right and left approaches of Franklin Street at Station 839+27.

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**CHAPTER 145**  
**DANGEROUS BUILDINGS**

145.01 Enforcement Officer	145.05 Conduct of Hearing
145.02 General Definition of Unsafe	145.06 Posting of Signs
145.03 Unsafe Building	145.07 Right to Demolish
145.04 Notice to Owner	145.08 Costs

**145.01 ENFORCEMENT OFFICER.** The Mayor is responsible for the enforcement of this chapter.

**145.02 UNSAFE BUILDINGS A NUISANCE.** All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demotion or removal in accordance with the procedure specified in this chapter. Abatement measures shall include, but are not limited to: dismantling of incomplete, dilapidated or damages structures; 2) filling any and all excavations or other irregularities in the soil surface; and 3) removal of trash and building remains.

**145.03 DEFINITIONS.** For the purpose of this Code certain terms and words are hereby defined.

1. "Building" and "structure" shall have the meanings given them by code Section 165.01, Subsections 8 and 51.
2. As used herein the term "unsafe" is synonymous with the word "dangerous." "Unsafe" and "dangerous" building or structure means that the building or structure for ordinary purposes produces some risk of harm to persons or property.
3. "Defective conditions" making a building or structure unsafe or dangerous may be one or more of the following:
  - a. structural inability to resist or exclude weather elements under ordinary circumstances as might exist in the locality;
  - b. structural inability to resist or exclude weather elements under ordinary as might happen in the locality judgment from past experience;



- c. inadequate maintenance, abandonment, dilapidation, decay or obsolescence, such as indicate lack of concern by the owner for the general protection of property;
- d. incomplete construction;
- e. incomplete repair of damage incurred;
- f. lack of adequate means of ingress or egress;
- g. violation of the State of Iowa building code, or any other building code adopted by the City;
- h. possibility of collapse of the building, structure or any portion thereof, from any cause;
- i. fire hazard;
- j. other hazard to public safety, health or welfare.

Existence of any or all of the foregoing defective conditions may be found by Mayor, by any building inspector, fire marshal, fire chief, or by any other officer charged with maintaining and enforcing public health, sanitation and safety. Existence of any of the defective conditions listed in this section is presumed to produce some risk of harm to person or property. The foregoing list of defective conditions is not exhaustive; other defective conditions may be shown, together with some risk of harm to person or property from the condition.

**145.04 NOTICE TO OWNER.** The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

**145.05 CONDUCT OF HEARING.** If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

**145.06 POSTING OF SIGNS.** The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF FAYETTE, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

**145.07 RIGHT TO DEMOLISH.** In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

**145.08 COSTS.** Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special

assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

**EDITOR'S NOTE**

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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## CHAPTER 150

### HOUSE AND BUILDING NUMBERING SYSTEM

150.01 Dividing Lines	150.06 Duty of Owner or Lessee
150.02 Numbering	150.07 Grandfather Provision
150.03 Naming Streets "East," "West," "North" and "South"	150.08 Standard for Numbers
150.04 Frontage to Affect Numbering	150.09 Numbering by City Upon Failure to Act
150.05 Use of Even and Odd Numbers	150.10 Council to Determine Number in Case of Doubt
	150.11 House Numbering File Book

**150.01 DIVIDING LINE.** Main Street is the dividing line for all streets running east and west and transversely thereto, and the Volga River is the dividing line for all streets running north and south and transversely thereto.

**150.02 NUMBERING.** Main Street and all streets parallel thereto, south and north of Water Street, shall be so numbered that all buildings within the blocks next to the Volga River shall be 1 to 100 and shall rise 100 for each consecutive block to the south and north limits of the City. The buildings on the streets running transversely to Main Street shall be so numbered on either side of Main Street that the buildings within the blocks next to Main Street shall be 1 to 100 and shall rise 100 for each consecutive block to the east and west limits of the City.

**150.03 NAMING STREETS "EAST," "WEST," "NORTH" AND "SOUTH."** All streets running transversely to Main Street shall be termed "West" and by their respective names or numbers, in that portion of the City lying west of Main Street, and terms "East" and by their respective names or numbers in that portion of the City lying east of Main Street. All streets running transversely to the Volga River shall be termed "South" and by their respective names or numbers in that portion of the City lying south of the Volga River and termed "North" and by their respective names or numbers in that portion of the City lying north of the Volga River.

**150.04 FRONTAGE TO AFFECT NUMBERING.** For the purpose of assigning numbers, each lot having a street frontage of 22 feet shall have a separate number, and buildings having more than a 22-foot frontage shall be numbered by the number to which the lot is entitled upon which the principal entrance to the building is located.

**150.05 USE OF EVEN AND ODD NUMBERS.** All dwellings and business buildings within the City shall be numbered with odd numbers on the north side of the streets and even numbers on the south side of streets running east and west.

Streets running north and south shall have odd numbers on the east side and even numbers on the west side of the streets.

**150.06 DUTY OF OWNER OR LESSEE.** All owners or lessees of buildings on any of the streets of the City are required to number their buildings in accordance with the provisions of this chapter, and shall cause the number to be placed in plain view on their buildings, and so maintained.

**150.07 GRANDFATHER PROVISION.** All buildings numbered as of December 15, 1988, may retain their designated numbers, unless confusion would result therefrom. Future interplacated buildings shall conform with the prevailing numbering system of that location, to preserve the logical order.

**150.08 STANDARD FOR NUMBERS.** The numbers used to number buildings shall be a minimum of three and one-half (3½) inches high and two (2) inches wide, and made of metal or other substantial and durable material. Their color shall contrast with the building color; they shall be easily visible from the road and close to the entrance that they are to identify. In multiple dwelling structures, all separate dwellings shall be identified by exterior numbers.

**150.09 NUMBERING BY CITY UPON FAILURE TO ACT.** If an owner or lessee neglects or refuses to number the building or buildings owned or occupied by said owner or lessee, as herein required, within ten (10) days after being notified, either personally or by public notice published in a local newspaper, then such numbering shall be done by the City under proper order of the Council and the cost thereof shall be assessed to the property.

**150.10 COUNCIL TO DETERMINE NUMBER IN CASE OF DOUBT.** In case of doubt as to the proper number for any building on a lot subject to the provisions of this chapter, the Council shall decide the same.

**150.11 HOUSE NUMBERING FILE BOOK.** A book showing all streets within the City limits of the City and all building numbers required under this chapter shall be in the office of the City Administrator/Clerk. Whenever a new plat is filed as an addition to the City, it shall show the numbers for each lot or building as required under this chapter.

## CHAPTER 151

### TREES

151.01 Definition	151.07 Inspection
151.02 Planting Restrictions	151.08 Permit
151.03 Public Tree Care	151.09 Removal of Stumps
151.04 Tree Topping	151.10 Disease Control
151.05 Pruning; Corner Clearance	151.11 Inspection and Removal
151.06 Removal of Trees	

**151.01 DEFINITION.** For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

**151.02 PLANTING RESTRICTIONS.** No tree shall be planted in any parking or street except in accordance with the following:

1. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree.
2. Distance from Curb to Sidewalk. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
3. Distance from Street Corners and Fire Plugs. No street tree shall be planted closer than thirty-five (35) feet of any street corner, measured from the point of nearest intersecting curbs and curb lines. No street tree shall be planted closer than ten (10) feet to any fire plug.
4. Utilities. No street tree may be planted under or within ten (10) lateral feet of any overhead utility wire or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
5. Recommended Trees. See Resolution of “Recommended Trees for Planting” that is on file in City Hall.

**151.03 PUBLIC TREE CARE.** The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Public Works Director may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Section 151.02.

**151.04 TREE TOPPING.** It is unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Public Works Director.

**151.05 PRUNING; CORNER CLEARANCE.** Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street light intersection and so that there shall be a clear space of eight (8) feet above the surface of the sidewalk and fifteen (15) feet above the surface of the street. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on the owner of the abutting property requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

**151.06 REMOVAL OF TREES.** The Public Works Director shall remove any tree on the streets of the City which interferes with the making of improvements or with travel thereon. The Public Works Director shall additionally remove any trees on the street, not on private property, which are dead or have become diseased, or which constitute a danger to the public or which may otherwise be declared a nuisance.

**151.07 INSPECTION.** The Public Works Director shall inspect annually all trees and shrubs in the parking areas of the City. Dead, diseased, damaged or hazardous trees or shrubs shall be identified and scheduled for removal. A copy of the inspection report shall be provided to the Mayor.



**151.08 PERMIT.** A permit is required for all planting of street trees and shrubs in the parking areas of the City. The application form for such permit is available from the City Administrator/Clerk. The application for a permit shall not be considered by the Tree Board unless and until the applicant has staked the exact location for the proposed street tree and has obtained permission to dig in such exact location from all concerned utilities. The approval of the permit shall be at the discretion of the Tree Board, taking into account the provisions of this chapter, the City Tree Plan and the best interests of the community. The permit shall expire six months from date of issue.

**151.09 REMOVAL OF STUMPS.** All stumps of street and park trees shall be removed below the surface of the ground so that the stump does not project above the surface of the ground.

**151.10 DISEASE CONTROL.** Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

**151.11 INSPECTION AND REMOVAL.** The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and such trees and shrubs shall be subject to removal as follows:

1. Removal from City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, and that danger to other trees within the City is imminent, the Council shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Removal from Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that the danger to other trees within the City is imminent, the Council shall immediately notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the nuisance to be removed and the cost assessed against the property.

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

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**CHAPTER 155****DEMOLITION OF BUILDINGS****155.01 Demolition Permit****155.03 Scope of Work****155.02 Permit Requirements****155.04 Owner's Responsibility**

**155.01 DEMOLITION PERMIT.** No person shall demolish any building within the City without first obtaining a written permit for the same from the City.

**155.02 PERMIT REQUIREMENTS.** Demolition permits may be obtained from the office of the City Administrator/Clerk. The party requesting the permit must supply the City with the schedule of demolition, including starting and completion dates.

**155.03 SCOPE OF WORK.** No person shall demolish any building without providing for the appropriate disconnection of all utilities and all sanitary and storm sewers shall be plugged or capped. The basement walls and foundation shall be completely removed and the hole filled to one (1) foot above the average grade with clean fill dirt. The area shall be properly barricaded to discourage trespassing.

**155.04 OWNER'S RESPONSIBILITY.** It is the responsibility of the property owner to see that the contractor and workers are properly covered with property and liability insurance and that the demolition is completed in a reasonable time and that all debris is removed.

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**CHAPTER 160****FLOOD PLAIN REGULATIONS**

160.01 Statutory of Authority and Purpose	160.11 Flood Plain Development Permit Required
160.02 Definitions	160.12 Application for Permit
160.03 Lands to Which Chapter Applies	160.13 Action on Application
160.04 Rules for Interpretation of Flood Hazard Boundaries	160.14 Construction and Use to be as Provided in Application and Plans
160.05 Compliance	160.15 Variances
160.06 Abrogation and Greater Restrictions	160.16 Factors Upon Which the Decision to Grant Variances Shall be Based
160.07 Interpretation	160.17 Conditions Attached to Variances
160.08 Warning and Disclaimer of Liability	160.18 Nonconforming Uses
160.09 Flood Plain Management Standards	160.19 Amendments
160.10 Administration	

**160.01 STATUTORY OF AUTHORITY AND PURPOSE.** The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. **Restrict Use.** Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
2. **Vulnerable Uses Protected.** Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. **Unsuitable Land Purchases.** Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. **Flood Insurance.** Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

**160.02 DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (sub-grade) on all sides. Also see "lowest floor."
3. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure.”
5. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. “Factory-built home” means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood elevation” means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. “Flood Insurance Rate Map (FIRM)” means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Flood plain” means any land area susceptible to being inundated by water as a result of a flood.
13. “Flood plain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.
14. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
  - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
  - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
  - B. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level; and

- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “New construction” (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after April 1, 1987.

20. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these flood plain management regulations.

21. “100-Year Flood” means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. “Recreational vehicle” means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the Flood Insurance Rate Map.

24. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary



forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or

safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of an "historic structure," provided the alteration will not preclude the structure's designation as an "historic structure."

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more.

All additions constructed after April 1, 1987, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

29. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

**160.03 LANDS TO WHICH CHAPTER APPLIES.** The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City of Fayette. For the purpose of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for Fayette County and Incorporated Areas, City of Fayette, Panel 19065C0302D, 0304D, 0306D, 0308D, dated August 16, 2011, which is hereby adopted and made a part of this chapter.

**160.04 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

**160.05 COMPLIANCE.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

**160.06 ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

**160.07 INTERPRETATION.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**160.08 WARNING AND DISCLAIMER OF LIABILITY.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

**160.09 FLOOD PLAIN MANAGEMENT STANDARDS.** All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where flood data and 100-year flood data have not been provided in the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data.

1. All development within the special flood hazard areas shall:

- A. Be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.
  - C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from Federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood-proofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
- A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - (2) The bottom of all openings shall be no higher than one foot above grade.
    - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-built homes:
- A. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
  - B. All factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse or lateral movement. The following specific requirements (or their equivalent) shall be met:
    - (1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional tie per side;
    - (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;
    - (3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

- (4) Any additions to factory-built homes shall be similarly anchored.
6. Utility and Sanitary Systems.
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities other than on-site systems shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
- D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood-walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion. In addition, the Department of Natural Resources shall approve structural flood control works.
10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by

wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one (1) foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

- (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
- (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section 160.09 (5) of this chapter regarding anchoring and elevation of

factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

**160.10 ADMINISTRATION.** The City Administrator/Clerk shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

**160.11 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED.** A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

**160.12 APPLICATION FOR PERMIT.** Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for

which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

**160.13 ACTION ON APPLICATION.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

**160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.** Flood Plain Development Permits, issued on the basis of approved plans and applications, authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

**160.15 VARIANCES.** The Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety,



extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice To Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

**160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED.** In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain

management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

**160.17 CONDITIONS ATTACHED TO VARIANCES.** Upon consideration of the factors listed in Section 160.16, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.
5. Floodproofing measures.

**160.18 NONCONFORMING USES.**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

- A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this chapter.
- B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, except unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

**160.19 AMENDMENTS.** The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

**160.20 PENALTIES FOR VIOLATIONS.** Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (Five hundred dollars) or imprisoned for not more than thirty (30) days. Nothing herein contained prevents the City of Fayette from taking such other lawful action as is necessary to prevent or remedy violation.

*(Council approved May 16, 2011 under Ordinance 471 with approval by the IDNR)*

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## CHAPTER 162 SOLAR ENERGY SYSTEMS

165.01 Purpose  
165.02 Definitions

165.03 Permit Process  
165.04 Solar Energy System Requirements

**162.01 PURPOSE.** The purpose of this chapter is to provide regulations for construction, installation, and operation of solar energy systems in the city limits of Fayette, Iowa.

**162.02 DEFINITIONS.** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Accessory Structure:** A structure which is on the same lot or parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.
2. **Ground-Mounted Solar Energy System:** Solar energy system that is free standing, directly installed to the ground, and is not supported by any building, accessory, or dwelling. For the purposes of this chapter, solar powered lights used to illuminate exterior areas shall not be included in this definition.
3. **Passive Solar Energy System:** A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via heat exchanger.
4. **Principal Structure:** The main structure or building on a lot or parcel in which the primary permitted use by right occurs.
5. **Roof-Mounted Solar Energy System:** A solar energy system mounted directly abutting the roof or as modules fixed to frames which can be tilted toward the south at an optimal angle.
6. **Solar Energy System:** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

**162.03 PERMIT PROCESS.** All owners of residential or commercial property shall acquire a building permit from the City of Fayette and provide a shade report or equivalent documentation from a licensed solar installer prior to construction of solar energy systems. Those failing to acquire a building permit are subject to fines as noted in the code of ordinances. Roof-mounted Solar Energy Systems need only an approved building permit as long as all requirements are met. Ground-Mounted Solar Energy Systems require approval from the City Council. The City Council shall hold a public hearing and send a notification to all property owners within 250 feet of the property where the ground-mounted solar energy system will be erected advising them of the public hearing. If a variance is needed for any part of the solar energy system to be installed on the property, after approval from the City Council, the owners of the property will also need approval from the Board of Adjustment, as stated in Chapter 165.

**162.04 SOLAR ENERGY SYSTEM REQUIREMENTS.**

(A) **Height:** Roof-mounted solar energy systems in residential applications shall not be higher than 10 inches above the roof at any point. Ground-mounted solar energy systems in residential applications shall not exceed 15 feet in height from grade at total extended height.

(B) **Location:** The locations of ground mounted systems should avoid being in eyesight from the street. Roof-mounted systems must be placed on rear or side-facing roofs, which do not front any public street, unless a shade report or equivalent documentation from a licensed solar installer can be shown that such locations would be ineffective or impractical.

(C) **Setbacks:** Ground-mounted solar energy systems shall meet all set back requirements for the applicable zoning district for accessory structures. Roof-mounted systems shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(D) **Easements:** Solar energy systems shall not encroach on any platted public easement.

(E) **Screening:** Solar energy systems shall be screened from street view to the extent possible without reducing their efficiency. The applicant shall submit a landscaping plan with building permit application for ground-mounted solar energy systems.

(F) **Aesthetics:** All solar energy systems shall use colors that blend with the surrounding settings. Reflection angles from collector surfaces shall be oriented away from neighboring windows.

(G) **Maximum Area of unit.** Ground-mounted solar energy systems shall be treated as an accessory structure and thus are limited in area to the accessory structure limitations as set by the City Code. The total size of all solar energy systems may not produce any amount of energy, addition to other alternative energy systems beyond the average annual consumption.

(H) **Compliance with International Building Code:** Building permit applications for ground-mounted solar energy systems shall be accompanied by standard drawings of the solar energy system structure, including the panels, base, and footings. For roof-mounted applications, standard drawings showing the capability of a roof to support such a proposal shall be submitted for review. An engineering analysis of the system showing compliance with the International Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.

(I) **Compliance with Federal Regulations:** Solar energy systems must comply with applicable Federal regulations.

(J) **Compliance with National Electric Code:** Building permit applications for solar energy systems shall be accompanied by a line drawing of the electrical components in

sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code

(K) **Utility Notification:** No solar energy system shall be installed until evidence has been given that the electric utility provider has been informed of the customer's intent to install an interconnected customer-owned generator and the customer can show proof that they have received, understand and agree to abide by the utility's requirements for net metering and distributed generation installation. A disconnect will be required at the time of installation and the electric utility provider shall be notified of this installation. A written statement from the utility company shall be presented at the time of applying for a construction building permit showing compliance with the disconnect requirement.

(L) **Safety:** Feeder lines, Utility connects, and any other feature shall have appropriate markings, warnings, and safety features to prevent harm to persons, wildlife, or personal property.

(M) **General Requirements on Operation:** The owner of a solar energy system shall defend, indemnify, and hold harmless the City of Fayette and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever including attorney fees arising out of the actions or omissions of the operator or the operator's contractors concerning the construction or operation of the solar energy facility without limitation, whether said liability is premised on contract or tort. Owner's submittal for a building permit for a solar energy system shall constitute agreement to defend, indemnify, and hold harmless the City of Fayette and their officials.

(N) **Maintenance:** All solar energy facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all of the requirements in this section and permit conditions for a continuous 6 month period.

i. **Notice of Abandonment:** The City of Fayette may issue a Notice of Abandonment to the owner of a solar energy system that is deemed not meeting the requirements or conditions associated with the solar energy system for a continuous 6 month period. The owner shall have the right to respond to the Notice within 30 days from receipt date. The Zoning Official shall withdraw the Notice and notify the owner that the Notice has been withdrawn should the owner provide satisfactory information that demonstrates the solar energy system has not been abandoned.

ii. **Removal:** If the solar energy system is determined to be abandoned, the owner, at their sole expense, shall restore site to original condition and vegetation restored within 120 days. This determination shall include the requirements or conditions associated with the solar energy system not being met for a continuous 6 month period.

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**CHAPTER 165**

**ZONING REGULATIONS**

165.01 Definitions	165.11 Application of District Regulations
165.02 Establishment of Districts and Zoning Map	165.12 Nonconforming Use
165.03 Changes in Official Zoning Map	165.13 Administration and Enforcement
165.04 Interpretation of District Boundaries	165.14 Permits
165.05 R-1 Residential District Regulations	165.15 Fees
165.06 B-1 Local Business District Regulations	165.16 Interpretation of Provisions
165.07 B-2 Restricted Business District Regulations	165.17 Violations and Penalties
165.08 M-1 Local Industrial District Regulations	165.18 Changes and Amendments
165.09 A-1 Agricultural District Regulations	165.19 Downtown Overlay Zone (DOZ)
165.10 ZONING Supplementary District Regulations	

**165.01 DEFINITIONS.** For the purpose of this chapter, certain terms and words are hereby defined. As used herein, the word “building” includes the word “structure.”

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of land and serving a purpose customarily incidental to the use of the principal building or use of land.
2. “Alterations, structural” means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
3. “Apartment” means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites, or serving as an accessory use in a building whose principal use is the housing of a commercial business.
4. “Apartment house” means a building arranged, intended or designed to be occupied by three or more families living independent of each other.
5. “Awning Sign” means a sign that is mounted or printed on, or attached to, an awning, canopy, or marquee, provided, however, that the sign does not project above, below or beyond the awning, canopy or marquee.
6. “Basement” means a story having part but not more than one-half its height below grade. A basement is counted as a story for the purposes of height regulation.
7. “Bed and Breakfast (homestay)” means a home residence occupied by the owner or innkeeper on a permanent basis and which contains not more than two individually decorated commercially available guest rooms, a common room for bed and breakfast guests. The minimum structure, sanitation and amenities standards for a bed and breakfast (homestay) establishment are those which would qualify the establishment for membership in the Iowa Bed and Breakfast Innkeepers Association.
8. “Boarding house” means a building other than a hotel, motel or bed and breakfast (homestay) where, for compensation and by arrangement, meals or lodging are provided for three or more persons.

9. "Building" means any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

10. "Building, height of" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

11. "Business" means commercial activity or enterprise customarily engaged in as a means of livelihood or occupation, usually although not necessarily with intention of producing gain or profit. Real estate zoned for "Business" use or purpose is therefore deemed most suitable for business use as its primary use.

12. "Cellar" means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

13. "Commerce" or "commercial" means intercourse between persons for purposes of trade or traffic in any and every kind of property or services allowed by law, whether tangible or intangible, including but not limited to goods, wares, productions, securities, contracts or transportation, and without regard to any intention to profit by such intercourse.

*[Newton v. Jasper Co. Board of Review, 532 N.W.2d 771 (Iowa 1995)]*

14. "Directional or Wayfinding Sign" means an advertising sign or device intended to direct or point toward a place, or object, or one that points out the way to either an unfamiliar or a known place or object that obviously could not be easily located without such a sign or device.

15. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.

16. "Dwelling, single-family" means a building designed for or occupied by one family.

17. "Dwelling, two-family" means a building designed for or occupied exclusively by two families.

18. "Dwelling, multiple" means a building designed for or occupied exclusively by more than two families.

19. "Family" means one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, hotel, motel or bed and breakfast (homestay) as herein defined.

20. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruits and grain, and their storage on the area, as well as for raising thereon the usual farm poultry and farm animals. The term "farming" includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the



normal farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals.

21. "Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
22. "Garage, private" means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. No more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.
23. "Garage, public" means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring or storing motor-driven vehicles.
24. "Garage, storage" means a building or portion thereof designed or used exclusively for term storage by pre-arrangement of motor-driven vehicles, as distinguished from daily storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired or sold.
25. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of a building except when any wall approximately parallels and is not more than five feet from a street line, when the elevation of the street at the center of the wall adjoining the street shall be grade.
26. "Hotel" means a public house which provides, for compensation, three or more rooms or apartments for transient residents, and which may provide meals or other services to its guests.
27. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
28. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, stored or abandoned, baled or packed, disassembled or handled, including the dismembering or "wrecking" of automobiles or other vehicles of machinery; house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
29. "Loading space" means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.
30. "Lot" means a parcel of land, as legally described by an official plat or government survey, occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot are designated as its lot lines.
31. "Lot, corner" means a lot abutting two or more streets at their intersections.
32. "Lot, depth of" means the mean horizontal distance between the front and rear lines.
33. "Lot, double frontage" means a lot having frontage on two nonintersecting streets, as distinguished from a corner lot.
34. "Lot, interior" means a lot other than a corner lot.

35. "Lot of record" means a lot which is part of a subdivision, the plat of which has been recorded in the office of the county recorder of the county in which it is located.
36. "Lot width" means width of a lot measured at the building line and at right angles to its depth.
37. "Lot, reversed corner" means a corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.
38. "Main Street Business District" means that portion of Main Street lying within the B-1 business district between the Volga River and the intersection of Main Street and Clark Streets, and also all parcels of real estate adjoining Main Street therein. The "Main Street Business District" consists of the following Lots and Blocks of the Original Town of Fayette as platted for public record: Lots Three (3) and Four (4) of Block Five (5); Lots Eight (8) through Fourteen (14) of Block Six (6); Lots Eight (8) through Fourteen (14) of Block Seven (7); Lots One (1) through Seven (7) of Block Twelve (12); Lots One (1) through Seven (7) of Block Thirteen (13), and Lots One (1) and Two (2) of Block Fourteen (14).
39. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
40. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
41. "Mobile home park" means any site, lot, field or tract of land under common ownership upon which two (2) or more occupied mobile homes, manufactured homes, modular homes (or a combination of such homes) are harbored, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students.
42. "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building code Commissioner.
43. "Motel" means a building or group of attached or detached buildings, containing individual sleeping or living units in which lodging is offered to the public for compensation, including auto courts and motor hotels.
44. "Motor vehicle" means any vehicle which is self-propelled.
45. "Nameplate" means a plate or placard affixed to a building and so lettered or engraved as to indicate the legal name of a business operated from the premises.

46. “Nonconforming use” means any existing lawful use of a building or land which does not conform with the requirements of this chapter prior to its enactment or the effective date of any amendment thereto.
47. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.
48. “Office building” means a building designed for or used as the offices of professional, commercial, industrial, religious, institutional, public or semi-public persons or organizations; provided that no goods, wares or merchandise shall be prepared on the premises, except that a portion of an office building may be occupied by a drug store, barber shop, cosmetologist shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.
49. “Parking space” means a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
50. “Place” means an open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.
51. “Projecting Sign” means an on-premises sign which is attached directly to the structure wall and which extends more than 15 inches from the face of such wall.
52. “Resident business” means an occupation or profession which:
- A. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
  - B. Is carried on by a member of the family residing in the dwelling unit, and
  - C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
  - D. Does not employ more than one person outside the immediate family, and
  - E. Has no exterior display of goods or merchandise, no exterior storage of materials and no other exterior indication of the resident business or variation from the residential character of the principal building, and
  - F. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare, and
  - G. Has no exterior sign other than as may be required by law or ordinances, which sign shall not be greater than three square feet in area.
53. “Sign” means any structure or part thereof or device attached thereto or painted, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction

or advertisement. The word “sign” includes the word “billboard” but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

54. “Store building” means a building designed and constructed for primary use as a place of business or commerce, where human occupation and goods and personal services are made available to the public for sale, purchase, or hire and to which building the public may obtain direct, street level access to the first story thereof as invitees for commercial purposes. If the building is located within the Main Street Business District with its storefront facing Main Street then to be a “store building” the building must have at least one ground-story window facing Main Street and the public must have direct ground-story access through the storefront by way of a door facing Main Street.

55. “Storefront” means a wall of a store building which abuts and faces a city street.

56. “Story” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

57. “Story, half” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such story, except that a partial story used for residence purposes, other than for a janitor or caretaker and family, or by a family occupying the floor immediately below it, shall be deemed a full story.

58. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.

59. “Structure” means anything constructed or erected, the use of which requires more or less permanent location on the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, back stops for tennis courts and pergolas.

60. “Trailer camp” or “tourist camp” means an area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

61. “Travel trailer” or “camping trailer” means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of habitation by one or more persons. Said vehicle may be up to eight feet in width and any length provided its gross weight does not exceed 4,500 pounds, which shall be the manufacturer’s shipping or the actual weight of the vehicle fully equipped, or any weight provided its overall length does not exceed 28 feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes and not used as a place of permanent habitation. If any such vehicle is used in the State as a place of human habitation for more than 90 days in any 12 month period, it shall be classed as a mobile home, regardless of the size and weight limitation provided herein. This definition shall also include house cars and camp cars having motive power and designed for temporary occupancy as defined herein.

62. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by a portion of a structure from 30 inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining a side yard, or of the depth of a front yard or rear yard, the minimum horizontal distance between the lot lines and the building shall be used. A roof overhang up to three feet may project into a required yard.

63. "Yard, front" means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front a building on a street parallel to the lot line having the greater dimension.

64. "Yard, rear" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard.

65. "Yard, side" means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

**165.02 ESTABLISHMENT OF DISTRICTS AND ZONING MAP.** The City is hereby divided into districts which shall be designated as follows:

- A-1 Agricultural
- R-1 Residential
- B-1 Local Business
- B-2 Restricted Business
- M-1 Local Industrial
- DOZ Downtown Overlay Zone

The locations and boundaries of these districts are shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter. The official zoning map shall be on file in the office of the City Administrator/Clerk and shall be final authority as to the current zoning status of land, water areas, building and other structures in the City.

**165.03 CHANGES IN OFFICIAL ZONING MAP.** No changes in the official zoning map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made and the ordinance number, nature of change and date of change shall be noted on the map, together with the signature of the Mayor approving such change in the official zoning map.

**165.04 INTERPRETATION OF DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of the districts as shown in the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximating the City limits shall be construed as following the City limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the two main tracks.
5. Boundaries indicated as following shore lines shall be construed as to follow such shore lines, and in the event of a change in shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

#### **165.05 R-1 RESIDENTIAL DISTRICT REGULATIONS.**

1. Principal Uses and Structures. Only the following land uses shall be permitted in any area of the City zoned R-1 Residential District:
  - A. Single family dwelling;
  - B. Two-family dwelling;
  - C. Multi-family dwelling;
  - D. Lodging or boarding house;
  - E. Bed and breakfast (homestay);
  - F. Mobile home park — only in that area of the City located south of the County Road C-24 and east of Washington Street; provided that installation of such mobile home complies with Chapter 435, Code of Iowa; that installation includes an adequate water supply and sanitary sewer system approved by the State Board of Health; that a minimum area of 3,000 square feet for each mobile home space is provided; that a maximum density of 10 units per acre is adhered to; and that no mobile home may be within 25 feet of the property line of a mobile home park;
  - G. Nursing or custodial home;
  - H. Library;

- I. Educational, religious or philanthropic institution, but not including a penal institution or other institution requiring the erection of escape-inhibiting fences or barricades around its perimeter;
  - J. Hospital or clinic, but not an animal hospital, shelter or clinic;
  - K. Resident beauty shop, resident real estate or insurance office, resident doctor's or dentist's office, or similar resident business where only the sale of a service is involved; or, if sale of goods and products is ancillary to the sale of service, sale of the material product does not account for more than 20 percent of gross business income;
  - L. Funeral home;
  - M. Resident business involving the sale of goods produced as a hobby, sale of home-made products and garden produce when such business does not produce a heavy flow of traffic.
2. Permitted Accessory Uses And Structures.
- A. Off-street parking for permitted uses under this chapter;
  - B. Private garage;
  - C. Private swimming pool;
  - D. Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except resident occupations, and located on the same lot or on a contiguous lot under the same ownership;
  - E. Temporary building used in conjunction with construction work provided that such building is removed upon completion of the construction work.
3. Residential Dwelling Standards. All single-family dwelling units shall meet the following minimum standards:
- A. The minimum width of a dwelling structure or principal building shall be 22 feet at the exterior dimension of 3 or more exterior walls, exclusive of attached garages, porches or other accessory structures.
  - B. All dwelling units including attached garages shall be placed on a permanent frost-free foundation with frost footings extending at least 48 inches below grade.
  - C. All dwelling units shall provide for a minimum of 900 square feet of floor space.
  - D. All dwelling units shall have a minimum roof pitch of 3:12.
4. Minimum Lot Area And Width.
- A. A single family dwelling shall have a lot area of at least 6,000 square feet and a lot width of at least 65 feet.
  - B. A two family dwelling shall have a lot area of at least 7,200 square feet and a lot width of at least 70 feet.
  - C. A multi-family dwelling shall have a lot area of at least 6,000 square feet plus 1,500 square feet per dwelling unit over one, and a lot width of at least 80 feet.
5. Minimum Yard Requirement.

- A. A dwelling shall have a minimum front yard of 25 feet, a minimum rear yard of 30 feet and a minimum side yard of six feet plus two feet per story of height beyond the first story, except the side street yard on a corner lot shall be at least 15 feet;
- B. A school, church or other public or institutional building shall have a minimum front yard of 40 feet, a minimum rear yard of 40 feet, and a minimum side yard of 20 feet, except the side street yard on a corner lot shall be at least 25 feet.
6. Maximum Height Allowance. A building structure in an R-1 zoned district is limited to three stories or 45 feet of height.
7. Minimum Off-street Parking And Loading Space.
- A. A dwelling shall provide one space of off-street parking for each dwelling unit, except an apartment house shall provide 1.5 parking spaces per dwelling unit, and a dwelling which is used as a resident business shall provide an additional two parking spaces;
- B. A church or temple shall provide one parking space for each six seats in the main auditorium;
- C. A nursing, rest or convalescent home shall provide one parking space for each six beds;
- D. A school or public building shall provide one parking space for each classroom or office room plus one space for each 10 seats in the main auditorium, stadium or place of public assembly;
- E. A residence hall shall provide one parking space for every two beds.
8. Permitted Signs.
- A. Signs permitted in districts zoned R-1 are limited to:
- (1) Name plate no larger than will render it readily visible and readable from the street adjacent to the exterior wall to which the name plate is attached, provided that in no case shall the size of the name plate exceed three (3) square feet.
- (2) Church or public bulletin boards;
- (3) Temporary signs advertising the lease or sale of the premises not to exceed 12 square feet in area.
- B. Illumination of signs, bulletin boards and nameplates shall not exceed 60 watts and shall be provided only with indirect nonintermittent lighting devices.

**165.06 B-1 LOCAL BUSINESS DISTRICT REGULATIONS.**

1. Permitted Principal Uses And Structures. Only the following land uses shall be permitted in any area of the City zoned B-1 Local Business District:



- A. All uses permitted in R-1 Residential District, except as limited by Subsection 9 herein.
  - B. Stores and shops where goods are sold or where personal services are rendered and not otherwise prohibited;
  - C. Hotel or motel;
  - D. Office;
  - E. Filling station;
  - F. Public garage when located 50 feet or more from an R-1 Residential District;
  - G. Farm implement store, display and sale room; automobile, boat or trailer display and sale room when located 50 feet or more from any R-1 Residential District;
  - H. Printing shop;
  - I. Painting, plumbing, tinsmith, upholstering or similar general service shop;
  - J. Animal hospital or clinic where there is no open kennel;
  - K. Lumber yard;
  - L. Frozen food or locker plant;
  - M. Commercial laundry or dry cleaner, including coin operated laundry;
  - N. Recycling collection depot;
  - O. Motion picture theater, bowling alley, drive-in restaurant or similar establishment or place of entertainment when located 50 feet or more from any R-1 Residential District;
  - P. Restaurant or tavern;
  - Q. Liquor store;
  - R. Any other lawful business or occupation not otherwise prohibited or mentioned in this chapter which, considering the use restrictions herein, would, if mentioned herein, reasonably and logically be permitted in this B-1 Local Business District;
  - S. Accessory building customarily incidental to the above uses, including advertising signs and bulletin boards when not otherwise prohibited by this chapter;
  - T. Off-street parking.
2. Permitted Accessory Uses And Structures.
- A. Uses and structures clearly incidental to the permitted uses, including dwellings for the owner or employees thereof, located on the premises;
  - B. Storage warehouses in conjunction with permitted principal uses;
  - C. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions. Subject to the provisions of this chapter, the Board of Adjustment may permit carnivals, circuses, fairs, road shows or other similar special and temporary events.
4. Minimum Lot Areas And Width.

- A. A multi-family dwelling shall have a lot area of at least 6,000 square feet plus 1,500 square feet per each dwelling unit over one;
  - B. A commercial building shall have a lot area of sufficient size to accommodate the building's principal and accessory uses.
5. Minimum Yard Requirements.
- A. A dwelling shall have a minimum front yard of 25 feet, a minimum rear yard of 25 feet and a minimum side yard of 10 feet except the side street yard on a corner lot shall be at least 15 feet;
  - B. A building used for institutional purposes shall have a front yard of at least 25 feet, a rear yard of at least 30 feet and a side yard of at least 25 feet;
  - C. There shall be no yard requirement for a commercial building except where a B-1 district is adjacent to an R-1 district, a front or side yard of 10 feet and rear yard of 20 feet shall be provided between the commercial building and the boundary of the adjacent R-1 District.
6. Maximum Height Allowance. A building structure in a B-1 zoned district is limited to three stories or 45 feet of height.
7. Minimum Off-street Parking And Loading Space.
- A. A dwelling, hotel or motel shall provide one parking space for each dwelling or sleeping unit;
  - B. A church or temple shall provide one parking space for each six seats in the main auditorium;
  - C. A commercial business shall provide one off-street loading space for each 10,000 square feet of floor area or fraction thereof.
8. Permitted Signs. Signage regulations for B-1 Local Business Districts:

#### Signage Regulations

- 1. Size
  - i. No projecting sign shall exceed 12 square feet in area (per face if double faced).
  - ii. Awning signs shall be limited in size to the size of the physical awning.
  - iii. Directional/Wayfinding Signs size shall be determined by the City through a review process.
- 2. Location
  - i. Projecting signs may project up to 4 feet from the face of a building, provided the following requirements are met:
    - a. A minimum 5 foot clear sidewalk width is maintained from the curb line to the sign edge.
    - b. A minimum 8 foot clearance provided under the sign.
    - c. The sign does not exceed the height of the structure upon which they are attached. Signs may be placed on a parapet wall that is an architectural

extension of the façade, provided the sign does not extend more than 5 feet above the roofline of the structure and any support structures are not visible.

- ii. Directional/Wayfinding Signs shall be located within the Right-of-Way.
3. Materials
    - i. Signs shall be constructed of durable materials and shall be kept in well maintained conditions.
  4. Illumination
    - i. If desirable, signs may be illuminated by external lighting sources.
    - ii. Lighting shall not cause glare into adjacent buildings and/or streets
  5. Enforcement
    - i. A permit for signs, the commission said it is up to the city council as to how they choose to enforce the signage regulations.
  6. Exterior Lighting
    - i. Exterior lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights and lights where the lens is visible outside of the light fixture shall be prohibited, except where historical-style lighting is used that is compatible with historic-style street lamps installed by the City.
  7. Awnings and Overhangs

Objective: To create a visual continuity and identity throughout downtown and increase pedestrian comfort and convenience.

Standards:

- a. Along Main Street, overhangs that provide weather protection shall be provided along at least 50% of the frontage of the building.
- b. Overhangs may be constructed of any permanent, durable material.
- c. Overhangs for each block face shall be consistent in material.
- d. A minimum 5 foot clear sidewalk width is maintained from the curb line to the awning edge.

Overhangs shall be free projecting. (Vertical supports to the sidewalk are not allowed).

9. Notwithstanding any other provision of this Section, all buildings and structures within the Main Street Business District are subject to the following use restrictions:

A. No store building with a storefront facing Main Street shall be used primarily for storage or keeping of personal property items; however, this prohibition does not apply when the personal property is kept for sale or use in an ongoing business enterprise then operating in and from said store building.

B. No ground-story of any store building shall be used for dwelling or residence purposes

as in Section 165.05. However, this prohibition does not prevent residential use where the area used for residence or dwelling is either:

- 1) not accessible to Main Street directly through the storefront wall.
- 2) at least eight hundred (800) square feet of interior floor space (or half of the available interior floor space, (whichever is less) lying directly adjacent to the storefront wall and between the storefront wall and the residence area remains in use for commercial, non-residential purposes.

This subsection shall not prohibit use for dwelling purposes of store building stories located above street level, accessible by ways not passing through a storefront.

C. Any and all uses not conforming to this section's limitations, which exist on the day this section is enacted as part of the Code of Ordinances, shall be permitted as non-conforming uses. Such non-conforming uses may not be expanded beyond the use in effect as of the date of enactment. A nonconforming use may continue until the earliest of the following listed contingent events occur, after which the use shall terminate:

- 1) the owner voluntarily terminates the use;
- 2) active building occupancy or use lapses for at least 180 continuous days; or
- 3) title to the property changes from one owner to another.

D. After January 1, 2009 no building shall be erected within the Main Street Business District that is not a store building.

E. This section expresses the intent and purpose of the City Council to preserve and maintain the predominant business and commercial use of property of the Main Street Business District. The Section shall be interpreted so as to promote both the councils intention and purpose and business uses of said District.

#### **165.07 B-2 RESTRICTED BUSINESS DISTRICT REGULATIONS.**

1. Permitted Principal Uses and Structures
  - A. All uses permitted in an R-1 Residential District;
  - B. Stores and shops where goods are prepared and/or sold or where personal services are rendered and not otherwise prohibited;
  - C. Offices;
  - D. Any other lawful business or occupation not otherwise prohibited or mentioned in this chapter which, considering the use restrictions herein, would, if mentioned herein, reasonably and logically be permitted in this B-2 Restricted Business District;
  - E. Off-street parking.

2. Permitted Accessory Uses and Structures.
  - A. Uses and structures clearly incidental to the permitted uses, including dwellings for the owner or employees thereof, located on the premises;
  - B. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Minimum Lot Areas And Width.
  - A. A single or multi-family dwelling shall have a lot area in conformance with the restrictions for such lot areas identified in R-1 Residential Minimum Lot Areas and Width;
  - B. A commercial building shall have a lot area of sufficient size to accommodate the building's principal and accessory uses.
4. Minimum Yard Requirements. A dwelling or a commercial building shall have a minimum front yard of 25 feet, a minimum rear yard of 25 feet and a minimum side yard of 10 feet except the side street yard on a corner lot shall be at least 15 feet.
5. Maximum Height Allowance. A building structure in a B-2 zoned district is limited to three stories or 45 feet of height.
6. Minimum Off-street Parking And Loading Space. Off-street parking restrictions in a B-2 Restricted Business District shall be the same as for an R-1 Residential District except a commercial business shall provide a minimum of four off-street parking places plus one additional parking space for every two persons employed per working shift on the premises
7. Permitted Signs. Signs permitted in B-2 Local Business Districts are limited to:
  - A. Name plates not to exceed six square feet in total area;
  - B. Church and public bulletin boards;
  - C. Temporary signs advertising the sale or lease of the premises.

All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed promptly and the surrounding area restored to a condition free from refuse and rubbish.

#### **165.08 M-1 LOCAL INDUSTRIAL DISTRICT REGULATIONS.**

1. Permitted Principal Uses And Structures. Only the following land uses shall be permitted in any area of the City zoned M-1 Local Industrial District:
  - A. All uses permitted in R-1 Residential District and not otherwise prohibited;
  - B. All uses permitted in B-1 Local Business District and not otherwise prohibited;
  - C. Auto wrecking, rebuilding, salvage and storage when enclosed within a tight, solid fence no less than six feet in height or surrounded with a green belt planting not less than 20 feet wide and eight feet high. All such storage shall be located not less than 30 feet

from any street line and not less than 20 feet from any other lot line. The storage of rags, paper and similar combustible waste shall not be closer than 100 feet to any property line, unless enclosed in a masonry building of not less than four-hour fire restrictive construction;

D. The bulk storage of oils, petroleum and similar inflammable liquids and chemicals when stored underground in tanks no closer to any property line than the greatest depth to the bottom of such tanks or above the ground in tanks located at least 150 feet from any property line;

E. Livestock auction, sale barn and all related incidental activities;

F. Grain elevator and all related and incidental activities;

G. Bottling works;

H. Milk or dairy distributing station;

I. Truck terminal;

J. Manufacture of consumer goods and materials, except as otherwise prohibited by this chapter;

K. Any other use not prohibited by the laws of the State or by the provisions of this Code of Ordinances regulating nuisances, and provided that none of the following uses shall be permitted;

- (1) Acid and chemical manufacture;
- (2) Distillation of bones;
- (3) Fat rendering;
- (4) Fertilizer manufacture;
- (5) Garbage, offal or dead animal reduction or dumping;
- (6) Slaughter of animals;
- (7) Refining of petroleum and natural gas and their products;
- (8) Explosives manufacture or storage;
- (9) Storage of radioactive materials;
- (10) Smelting of metallic ores;
- (11) Glue manufacture;
- (12) Other similar use that would be hazardous to the public health, safety and welfare.

2. Permitted Accessory Uses And Structures.

- A. Any use or structure clearly incidental to the permitted uses of this district;
  - B. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions. Subject to the provisions of this chapter, the Board of Adjustment may permit the extraction of sand, gravel, limestone or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district.
4. Minimum Lot Areas And Width. A building structure in an M-1 zoning district shall be located on a lot of sufficient size to accommodate its principal and accessory uses.
5. Yard Requirements. A building structure in an M-1 zoning district shall have a front yard of at least 25 feet, a rear yard of at least 25 feet and a side yard of at least 20 feet.
6. Maximum Height Allowance. An office building, hotel, dwelling or other similar structure located in an M-1 zoned district shall be limited to 65 feet of height.
7. Minimum Off-street Parking And Loading Space.
- A. Warehousing, storage and manufacturing businesses located in an M-1 zoned district shall provide one off-street parking space for each two
  - B. employees plus one space for each vehicle used by the industry;
  - C. Any business located in an M-1 zoned district shall provide one off-street loading space for each 20,000 square feet of floor area or fraction thereof.
8. Permitted Signs. Signs permitted in an M-1 Local Industrial District are limited to:
- A. Name plates;
  - B. Public bulletin boards;
  - C. Temporary signs advertising the sale or lease of the premises;
  - D. Billboards or advertising signs provided they shall not be within 20 feet of any R-1 district or use.

All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed promptly and the surrounding area restored to a condition free of refuse and rubbish.

#### **165.09 A-1 AGRICULTURAL DISTRICT REGULATIONS.**

1. Permitted Principal Uses And Structures. Only the following land uses shall be permitted in any area of the City zoned A-1 Agricultural District:

- A. Agriculture, horticulture, dairy farming, livestock farming excepting feedlots or confinement barns or pens, poultry farming, general farming and other agricultural activities;
  - B. Single family dwelling;
  - C. Cemetery or mausoleum;
  - D. Church or temple;
  - E. Public or private school or college
  - F. Public building, public or semi-public park, playground or community building;
  - G. Golf course or country club;
  - H. Swimming pool;
  - I. Greenhouse or plant nursery.
2. Permitted Accessory Uses And Structures.
- A. Private garage;
  - B. Farm buildings incidental to agricultural uses;
  - C. Accessory uses or structures clearly incidental to the permitted uses or structures of this district, not involving the conduct of business on the premises, except resident businesses, and located on the same lot or a contiguous lot under the same ownership;
  - D. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.
3. Special Exceptions. Subject to the provisions of this chapter, the Board of Adjustment may permit:
- A. Public utilities and railroads;
  - B. Areas for dumping or disposal of trash or garbage;
  - C. Roadside stand for sale of produce raised on the premises;
  - D. Extraction of sand, gravel, limestone, topsoil or other natural resources provided the land is restored to a condition suitable for the permitted uses of this district;
  - E. Dog kennels and animal hospitals;
  - F. Riding stables.
4. Minimum Lot Areas And Width. A single family residential lot in an area zoned A-1 shall be of at least 20,000 square feet in area and at least 100 feet wide.
5. Minimum Yard Requirements.
- A. A single family dwelling in an area zoned A-1 shall have a front yard of at least 25 feet, a rear yard of at least 30 feet and a side yard of at least 10 feet plus two feet for each story above one, except that a side street yard on a corner lot shall be at least 15 feet;



- B. A school, church or other public or institutional building in an area zoned A-1 shall have a front yard of at least 40 feet, a rear yard of at least 40 feet and a side yard of at least 20 feet, except that a side street yard on a corner lot shall be at least 25 feet.
6. Maximum Height Allowance. A building structure in an area zoned A-1 shall be limited to three stories or 35 feet of height.
7. Minimum Off-street Parking And Loading Space.
- A. A dwelling shall provide at least two off-street parking spaces for each dwelling unit;
- B. A church or temple shall provide one space for each six seats in the main auditorium;
- C. A golf or country club shall provide two spaces per hole plus one space for each 100 square feet of clubhouse floor area;
- D. A community center shall provide 10 spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet;
- E. A school or public building shall provide one space for each classroom or office room plus one space for each 10 seats in the main auditorium, stadium or place of assembly;
8. Permitted Signs. Signs permitted in an A-1 Agricultural district are limited to:
- A. Name plates not to exceed three square feet in area;
- B. Church and public bulletin boards;
- C. Temporary signs advertising the sale or lease of the premises, not to exceed 12 square feet in area;
- D. Billboards or advertising signs, provided:
- (1) They are not within 300 feet of an intersection, highway structure, residence or another billboard;
- (2) They are not within 100 feet of a park, school, cemetery, public or semi-public building;
- (3) They are not within 75 feet of the centerline of a city or county road, or 100 feet of a State or Federal highway.

All permitted signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be removed promptly and the surrounding area restored to a condition free from refuse and rubbish.

**165.10 SUPPLEMENTARY DISTRICT REGULATIONS.**

1. **Visibility at Intersection.** On a corner lot in any agricultural or residential district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two-and-one-half feet and 10 feet above the centerline grades of the intersecting streets shall be erected, planted or maintained within the triangular area formed by the right-of-way lines at such corner and a straight line joining said right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and are measured along the right-of-way lines.
2. **Accessory Buildings.** No accessory building shall be erected in any required front or side yard and no separate accessory building shall be erected within five feet of any main building.
3. **More Than One Principal Structure on a Lot.** In any district, more than one principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this chapter are met for each structure as though it were on an individual lot.
4. **Height Regulation Exception.** The height limitations contained in the schedules of District Regulations do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
5. **Use of Public Right-of-way.** No portion of the public street or alley right-of-way shall be used or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.
6. **Travel Trailers or Camping Trailers.** Trailers occupied as temporary place of residence shall be located only in an approved tourist camp or trailer camp.
7. **Mobile Homes or Trailers.** Mobile homes occupied as a permanent or temporary place of residence shall be located in an approved mobile home park, or shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
  - A. **Dealer's Stock.** Mobile, modular or manufactured homes on private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.
  - B. **Existing Homes.** A taxable mobile home, manufactured, home or modular home which is located outside of a mobile home park as of July 1, 1994, shall be assessed and taxes as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

Occupied travel trailers or camping trailers shall be located only in an approved tourist or trailer camp.

8. Hedges and Fences. Fences or hedges shall not exceed four feet in height in any required front yard and shall not exceed six feet in height in any required side yard, subject to the further restrictions of subsection 1.
9. Proposed Use Not Covered in Chapter. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Planning and Zoning Commission for recommendation as to the proper district in which such use should be permitted and the chapter amended as provided before a permit is issued for such proposed use.
10. Buildings to Have Access. Every building hereafter erected or structurally altered shall be on a lot having frontage on a public street.
11. Flood Plain Restrictions. Any building or structure intended for permanent or temporary occupancy along or near the Volga River shall be placed at such location and elevation as in the opinion of the Administrative Officer shall be three feet above the crest of flood waters that may be expected to occur once in every 100 years. The Administrative Officer may request such technical services as necessary to determine that the building elevations, as proposed, comply with requirements set forth in this section.
12. Sidewalks. Sidewalks to be constructed shall be of Portland cement concrete, four feet in width, except in commercial or other areas where high volume of pedestrian traffic may require additional width. Such sidewalks shall be located one foot outside the property line and shall be constructed at the expense of the individual property owners at grades and specifications approved by the Council.

#### **165.11 APPLICATION OF DISTRICT REGULATIONS.**

1. Regulations to be Uniformly Applied. The regulations set by this chapter within each district shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.
2. All Uses and Structures to Conform. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density or Yards Shall Not be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller front yards, rear yards or side yards, or other open spaces than herein required; or erected or altered in any other manner contrary to the provisions of this chapter.
4. Separate Yards, Open Space and Off-Street Parking Required. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, off-street parking or loading space similarly required for any other building.

5. Minimum Yards and Lot Areas May Not be Reduced. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by the chapter.

6. Newly Annexed Area. All territory which may hereafter be annexed to the City shall be classified in the R-1 Residential District unless otherwise classified, provided, however, that the Planning and Zoning Commission may recommend the appropriate district classification prior to annexation and after proper notice and public hearing, the territory upon annexation may be immediately so classified.

7. Structures to be in Compliance. No building or structure may be maintained within or moved into any district of the City unless such building or structure shall, by design, size and construction materials, substantially comply with and be comparable to, the greater majority of conforming structures in the district and occupied by a like or similar use; it being the public policy of the City, for the purposes of health, welfare, safety and aesthetics, that no substandard, unsafe, unsightly, unhealthy, poorly or improperly constructed dwelling or structure shall be allowed to be occupied or used in any district of the City other than as a nonconforming use which existed prior to the adoption of this chapter.

#### **165.12 NONCONFORMING USE.**

1. Intent. Within the districts established by this chapter or amendments that may be later adopted there exist lots, structures, and use of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but to discourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of the ordinance codified in this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of such ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except where the demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

2. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family

dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified in this chapter, provided, however, that no lot for residential use shall be less than 50 feet in width and 6,000 square feet in area. Such a lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through the action of the Board of Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified in this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter; nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter. Nothing in this section shall prevent the owner of a previously platted lot of record from selling said lot in its entirety or erecting upon it a structure which conforms to the provisions of this chapter, regardless of the size of the lot.

3. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is no longer permissible under the terms of this chapter as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater use of land than was occupied at the effective date of adoption or amendment of this chapter;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;

C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

4. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built or erected under the terms of the chapter, by reasons of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity;

B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

C. Exception. A nonconforming sign advertising a resident business may be maintained, altered or replaced as needed so long as (i) the resident business remains under the ownership and operation of the individual who was its legal owner at the time of the adoption of this chapter, (ii) the maintenance, alteration or replacement does not result in a sign that is more nonconforming than it was at the time of the adoption of this chapter, and (iii) the resident business is not moved to another residence or lot.

5. Nonconforming Uses of Structures. If a lawful use of a structure, or of a structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this chapter.

D. Any structure, or structure and land in combination, in or on which a nonconforming use of land is superseded by a permitted use, shall thereafter conform to the regulations of the district in which such structure is located, and the nonconforming use may not be thereafter resumed.

E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

F. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

6. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 10 percent of the current replacement value of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any public official charged with protecting the public safety, upon order of such official.

7. Uses Under Exception Provisions not Nonconforming Uses. Any existing use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, upon passage of the ordinance codified in this chapter, but shall without further action be deemed a conforming use in such district.

#### **165.13 ADMINISTRATION AND ENFORCEMENT.**

1. Administration and Enforcement. An Administrative Official (City Administrator/Clerk) designated by the Council shall administer this chapter. The official (City Administrator/Clerk) will provide with the assistance of such other persons (Chief of Police and/or second police officer), as the Council may direct, to enforce the decisions, resolutions and conclusions of these regulations. If the Administrative Official shall find that any of the provisions of this chapter are being violated, the official shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Administrative Official shall order discontinuance of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or prevent violation of its provisions. The Enforcement Officer (Chief of Police and/or second police officer) will ensure that the Administrative Official's notices to persons responsible for such violations will be carried out in a timely fashion and keep the Administrative Official informed of the outcome or effect of these enforcement actions.

2. Appeals from Decision of the Administrative Official. Appeals from any decision of the Administrative Official may be taken to the Board of Adjustment as provided in this chapter.

#### **165.14 PERMITS.**

1. Construction Permit. No building shall hereafter be erected, reconstructed, structurally altered or moved, nor shall any work be started upon same until a construction permit for same has been issued by the Administrative Officer, which permit shall state that the proposed building complies with all provisions of this chapter.

a. A property owner desiring to construct a building or structure shall make application to the Administrative Officer for a construction permit, on application form to be supplied by the City. The application shall substantially describe the proposed construction, including but not limited to height, dimension and setback calculations in compliance with this chapter.

b. If the Administrative Officer, exercising discretion, concludes that the proposed building does comply with all provision of this Chapter, then the Officer shall issue a construction permit. Said permit shall be effective for one (1) year from date of issue.

c. The party requesting the permit shall completely construct the proposed building within the year allowed by the permit.

d. If the construction is not completed within the year permitted

1.) the permit holder may apply to the city Council within 14 days after the expiration for the permit for an extension of the permit:

2.) the council shall grant a public hearing, to occur within thirty (30) days of such application.

3.) at the hearing the permit holder shall attempt to show that good cause exists for non-completion, and a reasonable estimate of the time needed to complete the project; and

4.) if the Council finds that good cause exists for non-completion of the project, then the council may grant a temporary construction permit of any length it may set, and the permit holder shall complete construction with in said time limit fixed by the Council.

e. Should construction not be completed within the year of the permitted, and the Council does not determine that good cause exists why the construction was not completed, then:

1.) construction may neither commence nor continue, and

2.) any incomplete building shall be a hereby is deemed as a matter of law to be an “unsafe building” under Chapter 145 of this code and a “nuisance” under Chapter 50 of this Code, and shall be abated as a nuisance under Chapter 50.

2. Certificate of Occupancy. Subsequent to the effective date of this chapter, no change in the use or occupancy of land nor any change in use or occupancy in an existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than a single family dwelling or a farming use until a certificate of occupancy has been issued by the Administrative Officer.

Every certificate of occupancy shall state that the new occupancy complies with all provisions of this chapter.

**165.15 FEES.** The Administrative Officer is directed to issue permits under this chapter for the construction, reconstruction, alteration or moving of buildings where the proposed work exceeds \$2,000.00 or where the proposed work would change any exterior feature of a building regardless of cost, and to charge a fee of \$10.00 for construction estimated to cost \$2,000 - \$5,000 and \$25.00 for costs over \$5,000. Such fees shall be paid to the Administrative Officer who shall forthwith pay over to the credit of the



General Revenue Fund of the City. These fees are set annually by resolution of the Council and are subject to change.

**165.16 INTERPRETATION OF PROVISIONS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adapted for the promotion of the public health, safety, aesthetics and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the more restrictive or that imposing higher standards shall govern.

**165.17 VIOLATIONS AND PENALTIES.**

1. Violation or Failure to Comply a Misdemeanor. Any person who willfully violates or fails to initiate action to comply with the provisions of this chapter within 15 days of notice of a violation by the Administrative Officer shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$100.00 or imprisoned not more than 30 days and shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.
2. Participants in Violation may be Charged Separately. The owners or any tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.
3. Structures in Violation. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate lawful action necessary to prevent, correct or abate such violation.

**165.18 CHANGES AND AMENDMENTS.**

1. Procedure. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council but no such amendments shall be made without public hearing before the Council and until after a report has been made upon the amendment by the Planning and Zoning Commission. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City. In case the Commission does not approve the change or, in the case of a protest filed with the Council against such change signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one lot or not to exceed 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not to exceed 200 feet from the street frontage of such opposite lots, such amendments shall not be passed except by the favorable vote of three fourths of all members of the Council.
2. Form of Application. An application for rezoning shall be submitted to the Administrative Officer, and shall contain the following terms:

- A. The legal description and local address of the property;
  - B. The present zoning classification and the zoning classification requested for the property;
  - C. The existing use and proposed use of the property;
  - D. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested;
  - E. A statement of the reasons why the applicant believes the present zoning classification is no longer valid;
  - F. A plat showing the locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads and other physical features.
3. Application Fee. Before any application is taken upon an application as provided in this chapter, the applicant shall pay the Administrative Officer the sum of \$15.00 (set annually by resolution of the Council) to cover the approximate cost of the procedure, and the officer shall forthwith pay over this amount to the credit of the General Revenue Fund of the City. The failure to approve the change shall not be construed as any reason for refunding the fee to the applicant.
4. Commission Action on Application. Upon receipt of the application by the Administrative Officer, a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
- A. Whether the current district classification of the property in question is valid;
  - B. Whether there is a need for additional land zoned for the purpose requested;
  - C. Whether the proposed change is consistent with the current land use plan, considering such factors as:
    - (1) Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area, and
    - (2) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity;
  - D. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

The Commission shall report its determinations and recommendations to the Council within thirty (30) days from the receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission.

**165.19. DOWNTOWN OVERLAY ZONE (DOZ)**

## a) APPLICABILITY

1. This section is applicable to all properties within the Main Street Business District and a DOZ Downtown Overlay Zone to be determined and shown on the official Zoning Map of the City of Fayette.

2. All properties for which these regulations are applicable shall retain their underlying zoning district designations, but shall also be regulated by the DOZ. If the standards of another provision of this Ordinance and the DOZ both apply to the exact same matter, the provision of the DOZ shall apply.

## b) PURPOSE

1. To enhance property values, protect property rights, stabilize and improve downtown and adjacent neighborhoods, and increase economic and financial benefits to Fayette businesses and inhabitants.

2. To encourage new development at appropriate locations in a manner consistent with desired architectural and urban design guidelines.

3. To promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural design elements.

4. To promote the continued use and/or redevelopment of historical and older structures

5. To provide high quality public spaces such as streets, sidewalks, parks, and plazas

6. To encourage mixed-use development within the core downtown

## c) SIGNAGE REGULATIONS

## 1. Size

a. No projecting sign shall exceed 12 square feet in area (per face if double faced)

b. Awning signs shall be limited in size to the size of the physical awning

c. Directional/Wayfinding Signs size shall be determined by the City through a review process.

## 2. Location

a. Projecting signs may project up to 4 feet from the face of a building, provided the following requirements are met:

b. A minimum 5' clear sidewalk width is maintained from the curb line to the sign edge

c. A minimum 8' clearance provided under the sign

d. The sign does not exceed the height of the structure upon which it is attached. Signs may be placed on a parapet wall that is an architectural extension of the facade,

provided the sign does not extend more than 5 feet above the roofline of the structure and any support structures are not visible.

- e. Directional/Wayfinding Signs shall be located within the Right-of-Way.

3. Materials

Signs shall be constructed of durable materials and shall be kept in well maintained conditions.

4. Illumination

- a. If desirable, signs may be illuminated by external lighting sources.
- b. Lighting shall not cause glare into adjacent buildings and/or streets.

d) GENERAL REGULATIONS

1. Front Yard Building Setbacks shall be approved by the City Council and be in conformity with the Downtown Master Plan.

2. Exterior Lighting must be placed and shielded so as to direct the light onto the site and away from adjoining properties. The lighting source shall not be directly visible from adjoining properties. Floodlights, wall pack units, other types of unshielded lights and lights where the lens is visible outside of the light fixture shall be prohibited, except where historical-style lighting is used that is compatible with historic-style street lamps installed by the City.

e) VEHICLE PARKING AND ACCESS

1. No new vehicle parking spaces shall be allowed within the area between the front lot line and the principal building. However, this provision shall not prohibit the rearrangement of existing parking areas. This provision shall not prohibit vehicle parking to the side of a principal building adjacent to a street.

2. When a new principal building is proposed, if a rear or side alley exists adjacent to the lot or an existing alley can feasibly be extended, such alley shall be used as access for any new vehicle garage, driveway or parking spaces, except a corner lot may have a garage, driveway or parking accessed from a street that is not along the front lot line. However, as part of the plan review process, these provisions may be modified if an alternative point of vehicle access is specifically required by the City Planning staff.

3. Any new parking area proposed to be located adjacent to a public right-of-way, other than that required for a single family home, shall be screened from the adjacent street right-of-way with shrubbery or an architectural wall or mostly solid fence, between 30 and 42 inches in height.

f) AWNINGS AND OVERHANGS

Objective: To create a visual continuity and identity throughout downtown and increase pedestrian comfort and convenience.

Standards:

1. Along Main Street, overhangs that provide weather protection shall be provided along at least 50% of the frontage of the building.
2. Overhangs may be constructed of any permanent, durable material.
3. Overhangs for each block face shall be consistent in material.
4. A minimum 5 foot clear sidewalk width is maintained from the curb line to the awning edge.
5. Overhangs shall be free projecting. (Vertical supports to the sidewalk are not allowed).

g) DESIGN GUIDELINES

1. The following design guidelines shall be considered in the design of new construction, additions and exterior alterations in the Downtown Overlay Zone.
  2. New construction should have rooflines that are similar to adjacent buildings. Flat roofs should be avoided, unless they include a decorative cornice in the front. Where a pitched roof is not practical, then the roof should at least appear to have angles and a pitch when viewed from the street.
  3. On sides visible from a street, new construction should use building materials that are similar in appearance to similar, older buildings in close proximity, including brick and stone.
  4. Where adjacent buildings have a certain horizontal or vertical orientation, that orientation should be continued in new construction. Where adjacent buildings have a certain spacing of windows and doors, similar spacing (and similar sizes of windows and doors) should be continued in new construction. Blank walls without door and window openings should be avoided along a street.
5. When applicable, historic precedents should be considered for new building designs.

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**CHAPTER 166**

**SUBDIVISION REGULATIONS**

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|--|---|
| 166.01 Short Title                                       | 166.16 Subdivision Classified           |
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166.28 Chain Subdividing

166.14 Sketch Plan Required

166.29 Optional Special Assessments

166.15 Presentation to Planning Commission or City Council

166.30 Cost Sharing

166.01 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Fayette, Iowa, Subdivision Control Ordinance."

166.02 **PURPOSE.** The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Fayette, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

166.03 **APPLICATION.** Every owner who divides any original parcel of land entered of record in the office of the County Recorder as a single lot, parcel or tract on or before *the effective date of these regulations (date of original Subdivision Ordinance)* into three or more lots, parcels, or tracts for the purpose, (whether immediate or future), of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City, or within two miles of the City limits, shall cause plats of such area to be made in the form, and containing the information in this Chapter, before selling any lots or placing the plat of record.

(Code of Iowa, Sec. 354.9)

166.04 **RECORDING OF PLAT.** No subdivision plat, resubdivision plat or street dedication within the City of Fayette, Iowa, as provided in Iowa Code 354.9, shall be filed for

record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved as provided in this Ordinance.

When the governing body approves the final plat, the subdivider shall immediately file the plat with the County Auditor and County Recorder, as required by law. The final plat's approval may be revoked after thirty (30) days, if the plat has not been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

166.05 **TERMS DEFINED.** Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive. As used in this Ordinance, the following words have the following meanings:

1. "Acquisition Plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

(Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.

(Code of Iowa, Sec. 354.2(2))

3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

4. "Auditor's Plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.

(Code of Iowa, Sec. 354.2(3))

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer licensed in the State of Iowa designated as City Engineer by the governing body or other hiring authority.

8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.



(Code of Iowa, Sec. 354.2(6) and 355.1(2))

12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

14. "Governing Body" means the Fayette, Iowa City Council.

(Code of Iowa, Sec. 354.2(8))

15. "Government Lot" means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9) and 355.1(3))

16. "Improvements" means changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainageways, and other public works and appurtenances.

17. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

18. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.

19. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.

20. "Metes and Bounds Description" means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

21. "Official Plat" means either an auditor's plat or a subdivision plat meeting the requirements of this chapter and filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

22. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before (*date of original Subdivision Ordinance*).

23. "Owner" means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on the titleholder's behalf.

24. "Parcel" means a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

25. "Performance Bond" means a surety bond or cash deposit or irrevocable letter of credit made out to the City of Fayette, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, with the cost estimated or approved by the City and the surety bond or cash bond being legally sufficient to secure to the City that the improvements will be constructed according to this Ordinance.

26. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Iowa Code 441.29.

(Code of Iowa, Sec. 354.2(14))

27. "Planning Commission" means the commission the City Council appointed for purposes of this Ordinance, and may be the Zoning Commission, in which case the commission shall be known as the Planning and Zoning Commission.

28. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that the subdivider submits for approval and intends, in final form, to record.

29. "Plats Officer" means the individual the City Council assigns to administer this Ordinance.

30. "Plat of Survey" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a licensed land surveyor.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

31. "Proprietor" means a person who has a recorded interest in land (the record landowner), including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

32. "Resubdivision" means any subdivision of land previously included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

33. "Street" means public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

34. "Street, Arterial". The term Arterial Street means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property. Required surface shall be 45 foot pavement (from back of curb to back of curb) with a right of way of 80 feet to 100 feet.

35. "Street, Collector". The term Collector Street means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets. Required surface shall be 41 foot pavement (from back of curb to back of curb) with a right of way of 70 feet.

36. "Street, Local". The term Local Street means a street primarily designed to provide access to abutting property. Required surface shall be 31 foot pavement (from back of curb to back of curb) with a right of way of 60 feet.

37. "Subdivider" means the proprietor of the property being subdivided, or such other person or entity empowered to act on the proprietor's behalf.

38. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of (*date of original Subdivision Ordinance*) into three (3) or more lots for immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation, including a re-subdivision or replatting. In context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date (*date of passage of this Subdivision Ordinance*), shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1(10))

39. "Subdivision Plat" means the graphical representation of the subdivision of land, prepared by a licensed land surveyor, having a number or letter designation for each lot within the plat and succinct name or title unique for Fayette County, Iowa.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))

40. "Surveyor" means a land surveyor licensed under Iowa Code 542B.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

41. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

42. "Utilities" include publicly or privately owned systems for the distribution of water, gas, and electricity; collection of wastewater, and storm water; and telephone, cable television, and other communication systems.

**166.06 IMPROVEMENTS REQUIRED.** The subdivider shall, at his expense, install and construct all improvements required by this Ordinance, installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

**166.07 INSPECTION.** The City or its representative shall inspect all improvements to insure compliance with this Ordinance's requirements. The subdivider shall pay the actual cost of the inspection to the City. City will bill subdivider for such inspection services.

**166.08 MINIMUM IMPROVEMENTS.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare:

(Code of Iowa, Sec. 364.1)

1. Streets and alleys. All streets and alleys within the platted area dedicated for public use shall be brought to the grade approved by the governing body after receiving the City Engineer's report and recommendations.

2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require. The thickness and quality of the concrete shall be approved by the City Council in consultation with the City Engineer.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks may be required by the governing body if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer.

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the standards, procedures and requirements of the City.

6. Sewers.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Natural Resources and shall be constructed according to the City's requirements.

b. Where sanitary sewers are not available, other facilities for the adequate disposal of sanitary wastes, approved by the governing body and the State and County Departments of Health, must be provided.

c. The subdivider at his expense shall install storm sewer system and other drainage improvements according to drawings and specifications prepared by a licensed engineer and approved by the governing body. Storm drainage systems must take into consideration two separate design storms: (1) minor storm with a 10% annual possibility of occurrence for sizing storm sewer pipes, inlets, street gutters and small swales; (2) major storm with a 1% annual possibility of occurrence for analyzing flows in excess of the minor storm system facilities' capacity providing for the protection against loss of life or serious substantial property damage.

7. Street Lighting. Street lighting shall be installed to provide a minimum illuminum as approved by the governing body.

8. Other Utilities. The subdivider shall make all arrangements and pay all costs associated with extending other utilities to and within the subdivision.

9. Erosion Control. The subdivider shall implement and maintain erosion control measures required by federal and state laws and regulations.

10. Permits. The subdivider is required to obtain all federal, state and local permits required by applicable laws and regulations.

**166.09 COMPLETION OF IMPROVEMENTS.** Before the governing body approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of this resolution of acceptance, the Superintendent of public works and/or City Engineer shall report that the improvements meet all City specifications and Ordinances (or other City requirements), and all agreements between subdivider and the City.

1. Guarantee/Warranty. The subdivider shall guarantee all public improvements (as to both workmanship and materials) against all defects for one (1) year from the date of acceptance of the improvements by the governing body. The subdivider shall provide a maintenance bond (or cash or irrevocable letter of credit) for the period of the warranty. A contractor's maintenance bond may be accepted by the governing body in lieu of a subdivider's maintenance bond.

**166.10 PERFORMANCE BOND.** The completion requirement may be waived in whole or in part if the subdivider posts a performance bond or irrevocable letter of credit with the governing body guaranteeing that improvements not completed will be constructed within one (1) year from final acceptance of the plat, but final acceptance of the plat does not constitute the City's final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction is completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

**166.11 MINIMUM STANDARDS.** The following standards are considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience

and safety, and in their appropriate relation to the proposed uses of the land served by such streets. (See Section 116.11(3)c for width)

b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.

a. Where the plat submitted covers only a part of the subdivider's plat, the subdivider shall furnish a sketch of the prospective future street system of the unsubmitted part and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Parcels subdivided into larger tracts than for building lots shall be divided to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not be approved.

3. Local streets.

a. Local streets shall be so planned to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall terminate with a turn-around, having an outside roadway diameter of at least eighty-five (85) feet and a street property line diameter of at least one hundred ten (110) feet. The right-

of-way width of the straight portion of such streets shall be a minimum of sixty (60) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

c. Minimum hard-surfaced width of local streets shall be 41 feet measured from back of curb to back of curb.

4. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or as otherwise approved by the governing body. The governing body may permit comparable cutoffs or chords in place of rounded corners.

5. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body and other applicable authorities (county, post office, emergency services, etc.).

6. Street grades.

a. Street grades, wherever feasible, shall not exceed ten (10) percent, with due allowance for reasonable vertical curves. The minimum rate of vertical curvature (K) shall be 19.

b. No street grade shall be less than one-half (1/2) of one (1) percent.



c. Minimum street crown shall be two (2) percent.

7. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be twenty (20) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the governing body.

8. Blocks.

a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

9. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

(1) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area, nor less than the minimum size required by the State and County Health Departments for on-site wastewater disposal systems.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall be ten (10) feet wider than adjacent lots to permit appropriate building setback from and orientation to both streets.

c. The subdividing of the land shall provide each lot with satisfactory access to an existing public street, by a public street.

d. No double frontage and reverse frontage lots are allowed except where essential for separation of the residential development from traffic arteries or for overcoming specific topography or orientation disadvantages. A planting screen easement of at least ten (10) feet, with no right of access over it, shall be provided along the line of lots abutting such traffic artery or such disadvantages.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

10. Building lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.

11. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide for all utilities except for sewers, where fifteen (15) feet will be the minimum width.

b. A subdivision traversed by a watercourse, drainage way, channel or stream, shall have a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

12. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as required by state and county land surveying and platting requirements. The markers shall be of such material, size and length as required by applicable state and county regulations.

**166.12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.** To obtain final approval of a proposed subdivision, the subdivider and owner must submit a plat in accordance with this Chapter's requirements and must install improvements or provide a performance bond for their future installation.

**166.13 PRE-APPLICATION CONFERENCE.** When a subdivision is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk, to be attended by the City Clerk, such other City or utility representatives as deemed desirable; and the owner and his engineer.

The purpose of this conference is to acquaint the City with the proposed subdivision, and the subdivider with the requirements, procedures, and any special problems relating to the proposed subdivision.

**166.14 SKETCH PLAN REQUIRED.** For the pre-application conference, the subdivider shall provide a map or sketch showing the subdivision's location, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

**166.15 PRESENTATION TO CITY COUNCIL.** The subdivider may present the sketch plan to the governing body for review, before incurring significant costs preparing the preliminary or final plat.

**166.16 SUBDIVISION CLASSIFIED.** Any proposed subdivision or resubdivision shall be classified as either a minor subdivision or a major subdivision.

1. Minor Subdivision: Any subdivision containing not more than four (4) lots fronting on an existing street, not requiring construction of any public improvements, and not adversely affecting the remainder of the parcel is a minor subdivision.

2. Major Subdivision: Any subdivision not meeting the definition of a minor subdivision, in the opinion of the governing body, is a major subdivision.

**166.17 PLATS REQUIRED.** To secure approval of a proposed subdivision, the owner and subdivider of any major subdivision must comply with the requirements for a preliminary plat and for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

**166.18 REQUIREMENTS OF PRELIMINARY PLAT.** The subdivider shall prepare and file with the City Clerk four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.

2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
  
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
  
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
  
5. Building setback or front yard lines.
  
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
  
7. Present and proposed easements, showing locations, widths, purposes and limitation.
  
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, indicating size and location of sewers, drains and water lines.
  
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
  
10. Names and addresses of the owner, subdivider, builder, and engineer and/or surveyor who prepared the preliminary plat, and the surveyor who will prepare the final plat, and the engineer who will prepare the improvement drawings and specifications.

11. Existing and proposed zoning of the proposed subdivision and adjoining property.

12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.

13. Contours at vertical intervals of not more than two (2) feet unless the City Council waives this requirement.

14. Certification and seal of the land surveyor and/or engineer who prepared the preliminary plats. Note: All copies submitted to the City shall be considered originals.

**166.19 REFERRAL OF PRELIMINARY PLAT.** The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

**166.20 ACTION BY THE CITY ENGINEER.** The City Engineer shall carefully examine the preliminary plat for compliance with Iowa Code 354.8 and the City's laws and regulations, the existing street system, and good engineering practices, and shall, (as soon as possible), submit the City engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

**166.21 ACTION BY THE GOVERNING BODY.** The governing body shall, upon receiving the report of the City Engineer, (as soon as possible, but not more than thirty (30) days after receiving it), consider the report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, unless the subdivider agrees to an extension of not to exceed an additional sixty (60) days. The governing body shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. If the governing body makes substantial changes or modifications or disapproves of the plat, it shall give its reasons and may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as "Conditional Approval" and states the conditions of such approval, if any.

3. The governing body's action shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.

4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

**166.22 FINAL PLAT.** The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of this Chapter.

**166.23 REFERRAL FINAL PLAT.** The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare, file four (4) copies of the final plat and other required documents with the City Clerk, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the governing body. All copies of the final plat and drawings and specifications for public improvements required by this ordinance shall be considered originals and shall have certification and seal of the land surveyor (plat) and of the engineer (drawings and specifications). Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the governing body until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

The final plat and other required documents will be referred to the City Engineer pursuant to the procedure established in the Fayette City Code, Chapter 166.19 and 166.20.

**166.24 REQUIREMENTS OF THE FINAL PLAT.** The final plat shall conform to Iowa Code 354 and 355, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch. The final plat shall show:

(Code of Iowa, Sec. 354.8 and 355.8)

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. (These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.)
3. Street names and clear designations of public alleys. (Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive.)
4. Location, type, materials, and size of all monuments and markers.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.
6. A sealed certification of the accuracy of the plat and the plat's conformity to the Iowa Code by the land surveyor who prepared the final plat.

**166.25 FINAL PLAT ATTACHMENTS.** The final plat shall have the following attached to it:



1. A correct description of the subdivision land.

(Code of Iowa, Sec. 354.6(2))

2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. (This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.)

(Code of Iowa, Sec. 354.11(1))

3. An Attorney's review of the abstract of title and opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.

(Code of Iowa, Sec. 354.11(2))

4. A certificate from the County Treasurer that the subdivision land is free from certified taxes and certified special assessments.

5. A certificate of dedication of streets and other public property and easements.

(Code of Iowa, Sec. 354.11(1))

6. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.

7. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.

(Code of Iowa, Sec. 354.11(4))

8. Licensed professional engineer certified and sealed drawings and specifications for all public improvements as required by this ordinance. (Drawings shall be prepared at a suitable scale and provide sufficient details for construction and inspection by the City. Calculations for the design of storm water inlets, pipes and appurtenances shall also be submitted.)

9. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk.

10. The encumbrance bond, if any, specified in Iowa Code 354.11 and 354.12.

(Code of Iowa, Sec. 354.11(2) and 354.12)

11. A hold harmless agreement protecting the City from any damages, claims or suits resulting from the construction and development by the owner and/or subdivider, to be approved by the City Attorney and recorded with the plat.

12. Mortgage holder's consent to plat, if mortgaged.

**166.26 ACTION BY THE GOVERNING BODY.** Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 166.23 the governing body shall either approve or disapprove the final plat.

(Code of Iowa, Sec. 354.8)

1. If the plat is disapproved by the Governing Body, such disapproval shall be expressed in writing pointing out where the proposed plat is objectionable.

2. If the plat is found acceptable and in accordance with this Ordinance, the governing body may accept the same.

3. The passage of a resolution by the governing body accepting the plat is final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause the plat to be recorded in the office of the County Recorder of Fayette County, Iowa, and shall file satisfactory evidence such recording before the City will recognize the plat as being in full force and effect.

**166.27 VARIANCES.** Where as to a particular subdivision strict compliance with a requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify or waive the requirements so that substantial justice may be done and the public interest promoted. However, such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance, and any variances and waivers may be granted only by the affirmative vote of four Fayette City council persons.

**166.28 CHAIN SUBDIVIDING.** No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by Ordinance or for additions or improvements to a main or accessory building already legally located upon the tract.

**166.29 OPTIONAL SPECIAL ASSESSMENTS.** A subdivider may file a petition with the Council, pursuant to Iowa Code 384.41, requesting that the City enter into an agreement under which special assessments will be levied to pay the cost of any or all of the improvements required under this Chapter. If a petition is approved by the Council, the agreement provided for in the petition will substitute for the requirement in this section that the subdivider provide the improvements covered by the agreement. Any agreement will be subject to the following requirements:

1. The Council may agree to include or exclude in a special assessment agreement any of the required improvements named in this section, and may establish standards different from those shown in this section for any of the required improvements which will be specially assessed.

2. The City may not have more than \$150,000 in special assessments outstanding from agreements with subdividers.

3. Special assessments will be levied for a maximum of five (5) years.

4. A subdivider may not have more than \$75,000 in special assessments outstanding at any time.

5. A subdivider may request special assessments against no less than four (4) and no more than fifteen (15) lots within a subdivision.

6. If a proposed subdivision contains more than fifteen (15) lots, the entire subdivision must be platted, but special assessment financing will be provided for a maximum of fifteen (15) lots.

7. A subdivider must agree to waive:

a. The limitation under Iowa Code 384.62 that an assessment may not exceed twenty-five percent (25%) of the value of the property assessed.

b. The right to request the deferment of special assessment installments against agricultural property provided in that section.

8. A subdivider must agree that a special assessment against a given lot will be paid in full whenever that lot is sold.

9. In addition to agreeing to be specially assessed, a subdivider must agree to reimburse the City for any costs it incurs in connection with the planning for or construction of the improvements specially assessed, including, but not limited to, design, engineering, legal services, preparation of bidding documents, etc., provided that, when a subdivider submits the petition to the Council, the subdivider shall present to the Clerk a certified check, payable to the City, in an amount of five thousand dollars (\$5000.00) to be held by the Clerk until the Council and the subdivider enter into a contract for construction of improvements. If the subdivider withdraws the petition, the money held as security shall be used to make payment of the costs incurred by the City. If additional funds are needed when the petition is withdrawn, the subdivider shall pay the City the balance due. If funds remain after payment of costs incurred, the balance shall be returned to the subdivider. After the contract is duly signed by all parties, the City shall return the certified check to the subdivider.

10. Any requirement of this section may be waived by an affirmative vote of four members of the Council.

**166.30 COST SHARING.** Nothing in this ordinance nor past actions of the governing body shall obligate the City to pay for any public improvements/infrastructure required by this ordinance. However, nothing in this ordinance nor past actions of the governing body shall preclude cost sharing or financial or technical assistance by the City; deemed in the City's interests by the governing body.

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CITY OF FAYETTE, IOWA**

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