CODE OF ORDINANCES
CITY OF CALMAR, IOWA

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CHAPTER 1

CODE OF ORDINANCES

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

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Calmar, Iowa, 2002.

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.

2. "City" means the City of Calmar, Iowa.

3. "Clerk" means the city clerk of Calmar, Iowa.

4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).

5. "Code of Ordinances" means the Code of Ordinances of the City of Calmar, Iowa, 2002.

6. "Council" means the city council of Calmar, Iowa.

7. "County" means Winneshiek County, Iowa.

8. "May" confers a power.

9. "Measure" means an ordinance, amendment, resolution or motion.

10. "Must" states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

12. "Ordinances" means the ordinances of the City of Calmar, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. "Shall" imposes a duty.

16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by 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, upon conviction, be subject to a fine of not more than five hundred dollars ($500.00) or imprisonment not to exceed thirty (30) days.

(Ord. 318 – Jun. 06 Supp.)

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

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CHAPTER 2

CHARTER

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

2.01 TITLE. This chapter may be cited as the charter of the City of Calmar, Iowa.[†]

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE**: Ordinance No. 174 adopting a charter for the City was passed and approved by the Council on July 3, 1972.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. § 403.8.

2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

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

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

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

1. Standard Civil Penalties.

   A. First Offense – Not to exceed $750.00

   B. Each Repeat Offense – Not to exceed $1,000.00

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

2. Special Civil Penalties.

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

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

      (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

      (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

      (3) The violation does not continue in existence for more than eight (8) hours.

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

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

8. The legal description of the affected real property, if applicable.

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

(Ord. 348 – Oct. 10 Supp.)

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

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

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

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

(Ch. 3 – Ord. 318 – Jun. 06 Supp.)

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

C. Members of all boards, commissions or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)

2. Bonds Approved. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)

3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])

4. Record. The Clerk shall keep a book, to be known as the "Record of Official Bonds" in which shall be recorded the official bonds of all City officers, elective or appointive.
(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.
(Code of Iowa, Sec. 22.2 & 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer's custody and appertaining to that office.
(Code of Iowa, Sec. 372.13[4])

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.
(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)

3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and

information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result

of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars ($2500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[11])

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

(Code of Iowa, Sec. 362.5[12])

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Each eligible elector who signs a nominating petition shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition shall not sign it. Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the Secretary of State and shall include information required by the Code of Iowa.

(Code of Iowa, Sec. 45.3)

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

3. Change Fund. The finance officer is authorized to establish a change fund 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 at such time and in such form as required by the Council.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and

activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations
8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

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 and distribution centers.

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.

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. "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.

5. "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 and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

(Code of Iowa, Sec. 427B.3)

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

(Code of Iowa, Sec. 427B.3)

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.

(Code of Iowa, Sec. 427B.3)

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

(Code of Iowa, Sec. 427B.4)

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 Finance and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue and Finance.

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.

(Code of Iowa, Sec. 427B.4)

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.

(Code of Iowa, Sec. 427B.5)

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.

(Code of Iowa, Sec. 427B.6)

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
267	November 4, 1996	Calmar Urban Renewal Area
382	November 2, 2015	Removing Property from Urban Renewal Area
383	December 7, 2015	2015 Calmar Commercial Urban Renewal Area

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments
15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of two (2) years.

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief
3. City Treasurer
4. City Attorney
5. Library Board of Trustees
6. Zoning Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is thirteen hundred dollars ($1300.00) per year. Effective January 1, 2002, the salary of the Mayor shall be fifteen hundred dollars ($1500.00) per year and thirty-five dollars ($35.00) for each meeting of the Council attended, payable quarterly.
(Code of Iowa, Sec. 372.13[8])

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.
(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

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

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

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

16.02 POWERS AND DUTIES. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to 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
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

2. 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 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. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars ($25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The 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 Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of

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

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

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

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

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

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

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

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

1. City Clerk
2. 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, payable annually. Effective January 1, 2002, the salary of each Council member shall be thirty-five dollars ($35.00) for each meeting of the Council attended, payable annually.

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

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CHAPTER 18

CITY CLERK

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control

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

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

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

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

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

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election. ***(Ord. 293 – Aug. 03 Supp.)***

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

19.01 APPOINTMENT. The Mayor shall appoint, subject to Council approval, a City Treasurer to serve at the discretion of the Mayor.

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. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.

4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

10. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation
20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Mayor shall appoint, with Council approval, a City Attorney to serve at the discretion of the Mayor. 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 give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council or Clerk.

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of 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 six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.

6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.

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

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

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of

all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

submitted at any election provided by law 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.

(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
22.02 Term of Office
22.03 Vacancies
22.04 Compensation
22.05 Powers and Duties

22.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6, 414.23 & 392.1)

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

(Code of Iowa, Sec. 392.1)

22.03 VACANCIES. If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

22.04 COMPENSATION. 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 AND DUTIES. The Commission shall have and exercise the following powers and duties:

1. Selection of Officers. The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

3. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes or modifications, all as provided by Chapter 414 of the Code of Iowa.

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

7. Fiscal Responsibilities. The Commission shall have full, complete and exclusive authority to expend for and on behalf of the City

all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 23

SOUTH WINNESHIEK RECREATION COMMISSION

23.01 Established
23.02 Appointment and Term of Office
23.03 Qualifications of Members-Compensation
23.04 Powers

23.01 ESTABLISHED. There is established a Commission to be known as the South Winneshiek Recreation Commission which shall have the jurisdiction, powers, duties and obligations created set forth and defined in the Statutes of Iowa as now existing or as hereafter amended.

23.02 APPOINTMENT AND TERM OF OFFICE. The Commission shall be composed of two members who shall be appointed by the Mayor with approval of the City Council. Each member of the Commission shall hold office for a term of one year. Vacancies shall be filled in the same manner as original appointments are made.

23.03 QUALIFICATIONS OF MEMBERS-COMPENSATION. Appointments to the Commission shall be residents of the City of legal age who have an active interest in the promotion of recreational activities. Members shall serve without compensation, but they shall be reimbursed for actual expenses incurred in the performance of their duties.

23.04 POWERS. The Commission shall have and exercise all the powers provided to it by the City of Calmar. The Commission shall use budgeted and donated funds to fund the administration of the CHAPTER 28E, City of Calmar, City of Ossian, City of Spillville and Northeast Iowa Community College Joint Administration Agreement.

(Ch. 23 – Ord. 389 – Aug. 16 Supp.)

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CHAPTER 30

POLICE DEPARTMENT

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

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 and dismiss the Police Chief subject to the consent of a majority of the Council. 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 other City officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

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

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CHAPTER 35

FIRE DEPARTMENT

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

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 100.2 & 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 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

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs
36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.

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

36.05 NOTIFICATIONS.

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

2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Ord. 321 – Oct. 06 Supp.)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public Safety Entities
41.03 Refusing to Assist Officer
41.04 Harassment of Public Officers and Employees
41.05 Interference with Official Acts
41.06 Abandoned or Unattended Refrigerators
41.07 Antenna and Radio Wires
41.08 Barbed Wire and Electric Fences
41.09 Discharging Weapons
41.10 Throwing and Shooting
41.11 Urinating and Defecating
41.12 Fireworks
41.13 Drug Paraphernalia
41.14 Public Exposure
41.15 Providing False Identification Information

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 727.2)

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

A. Personal Injury: - $250,000.00 per person.
B. Property Damage: - $50,000.00.
C. Total Exposure: - $1,000,000.

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.13 DRUG PARAPHERNALIA.

1. As used in this section "drug paraphernalia" means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, 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:

A. Manufacture a controlled substance.

B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

C. Test the strength, effectiveness or purity of a controlled substance.

D. Enhance the effect of a controlled substance.

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

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

41.14 PUBLIC EXPOSURE. No person, except as hereinafter provided, shall expose those parts of his or her body which are hereinafter listed to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:

1. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

2. The pubic hair, pubes, perineum or anus of a male or female, the penis or scrotum of a male or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

This subsection does not apply to limited or minimal exposures incident to the use of public rest rooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities. This subsection also does not apply to exposures occurring in live stage plays, live theatrical performances or live dance performances conducted in a theater, concert hall or similar establishment which is primarily devoted to theatrical performances.

(Ord. 331 – Nov. 07 Supp.)

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

(Code of Iowa, Sec. 719.1A)

(Ord. 347 – Oct. 10 Supp.)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft
42.07 Camping

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of

another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

42.07 CAMPING. It is unlawful for any person to occupy a recreational vehicle, tent and/or other enclosures on private and/or public property except as specified hereinafter:

1. Public Property. No tent, camping or camping in other enclosures is permitted on public streets, alleys, highways or other public property within the corporate limits of the City of Calmar except by special permission of the City Council.

2. Private Property. Camping on private property is permissible on a temporary basis for a period not to exceed two days in any one month period.

(Ord. 371 – Dec. 14 Supp.)

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:

A. "Arrest" means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.

B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. "Peace Officer" means the same as defined in Section 801.4 of the Code of Iowa.

D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. (*See Section 62.08 of this Code of Ordinances.*)

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency
46.04 Establishments Selling Alcoholic Liquor, Wine Or Beer

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

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

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

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

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

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

transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

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

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

G. "Unemancipated" means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of ten o'clock (10:00) p.m. and five o'clock (5:00) a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of twelve o'clock (12:00) midnight and five o'clock (5:00) a.m. on Friday, Saturday and Sunday.

(Ord. 301 – Mar. 04 Supp.)

3. Exceptions. The following are exceptions to the curfew:

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;

(2) Minor's place of religious activity or, if traveling, within one hour after the end of the religious activity;

(3) Governmental or political activity or, if traveling, within one hour after the end of the activity;

(4) School activity or, if traveling, within one hour after the end of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end of the activity.

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

F. The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without

qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in

full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties.

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

7. Notice. Notice of the ordinance codified in this section and its contents may be posted in or about such public or quasi-public places as may be designated by the Council or the Police Department in order that the public may be constantly informed of the existence of such ordinance and its regulations.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

(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 ESTABLISHMENTS SELLING ALCOHOLIC LIQUOR, WINE OR BEER.

1. It is unlawful for the holder of a Class "C" Liquor, Class "B" Beer and/or Special Class "C" Beer and Liquor license or permit issued pursuant to the *Iowa Alcoholic Beverage Control Act* and for person employed with respect to said premises to permit or fail to take reasonable measures to prevent the entry onto such premises after ten o'clock (10:00) p.m. of all persons who have not attained the age of nineteen (19) years. These provisions do not apply to an underage person who is accompanied by said person's parent, legal guardian or spouse.

2. It is also unlawful for those who have not attained the age of nineteen (19) years, except when accompanied by their parent, legal guardian or spouse, to be upon a premises holding a Class "C" Liquor,

Class "B" Beer and/or Special Class "C" beer and liquor license or permit issued pursuant to the *Iowa Alcoholic Beverage Control Act*.

3. The licensee or permittee of any business that holds a Class "C" liquor, Class "B" Beer and/or Special Class "C" beer and liquor license or permit issued pursuant to the *Iowa Alcoholic Beverage Control Act* shall be required to post in a conspicuous place near each entrance to the establishment a notice saying:

NOTICE TO PERSONS UNDER NINETEEN (19) YEARS OF AGE

You are subject to a maximum $100.00 fine for being on these premises unless you are employed by the owner or are accompanied by a parent, guardian or spouse of legal age.

The notice must be on a sign having minimum dimensions of 18 inches by 24 inches and must be clearly visible to anyone entering the premises.

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 Parks Closed
47.06 Camping

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m.

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

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

50.01 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:

(Code of Iowa, Sec. 657.2)

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, 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.

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

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

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

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

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct

and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

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

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

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

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

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

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

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. †

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

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

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

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

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

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

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

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

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

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time

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

stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Junk and Junk Vehicles Prohibited
51.03 Junk and Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Notice to Abate

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

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

2. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

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

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

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

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

F. Defective or Obsolete Condition. Any other vehicle 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. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other enclosed structure.

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])

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CHAPTER 52

WEEDS AND GRASS

52.01 Purpose
52.02 Definitions
52.03 Cutting Specifications and Standards of Practice
52.04 Uniform Height Specifications
52.05 Noxious Weeds
52.06 Violation
52.07 Notice
52.08 Penalty
52.09 Additional Violation

52.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.

2. "Cut" or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.

3. "Owner" means a person owning private property in the City and any person occupying private property in the City.

4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

52.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 52.04.

2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even

height with all other grass, weeds or brush growing on the remainder of the owner's property.

3. Property owners are not to discharge excessive grass into the street when mowing.

52.04 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas — not to exceed six inches (8″).

2. Undeveloped Residential Areas — not to exceed eight inches (8″).

3. Business and Industrial Areas — not to exceed six inches (8″).

4. Agriculture Areas — not to exceed fifteen inches (15″).

Grass, weeds and brush which are allowed to grow in excess of the above specified limitations are deemed to be in violation of this chapter.

52.05 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.

2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

52.06 VIOLATION. Upon the determination by the designated municipal officer by visual observation and measurement that a violation of this chapter has occurred, the City will send written notice by certified mail to the landowner informing said owner of the problem and the action that is to be taken.

52.07 NOTICE. The notice will set forth that the property owner has seven (7) days from the date of the notice to have the grass cut so that the height conforms with this section. The notice will set forth the address of the property in question and will instruct the landowner that this notice constitutes notice for the balance of the summer and that further action will be taken by the City to remedy the problem if it occurs again on the same property without additional written notice being given.

52.08 PENALTY. Any property, including the parking, which is not mowed within the time period in the notice may be mowed by the City, and a charge of $75.00 per hour for such mowing, plus a surcharge of $100.00, will be charged to the property owner. Any property owners who fail to mow their properties, including the parking, thus allowing the same to be mowed by the City, and who do not provide payment for the mowing as required, will be assessed by the City for such costs, which will be collected in the same manner as general property taxes.

52.09 ADDITIONAL VIOLATION. Any landowner who violates this chapter will be given one notice per summer, and the City will be authorized to respond to additional violations without additional written notice being given.

(Ch. 52 – Ord. 320 – Jul. 06 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.
(Code of Iowa, Sec. 717.1)

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

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.
(Code of Iowa, Sec. 717B.3)

55.03 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.
(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

55.09 VICIOUS ANIMALS. It shall be unlawful for any person to harbor or keep a vicious animal within the City. An animal is deemed to be vicious when it shall have attacked, bitten, molested or caused injury to a human or other animal or when propensity to attack or bite humans or animals has been shown to exist through no more than two repeated attacks or attempted attacks and where such propensity is known to the owner or ought reasonably be known to the owner thereof. This section shall not apply to guard and/or attack dogs, providing adequate safeguards are established to protect humans legally on the premises and the dog is registered as a guard/attack dog with the City.

1. Public Hearing on Disposition.

   A. If any animal is accused of being vicious, whether at large or restrained on private property, the City Clerk or designee may set a public hearing on the disposition of such animal. Pending such public hearing, the animal shall be impounded in a shelter approved by the City or in lieu of impound, the Police Chief may permit the dog or other animal to be confined, at the owner's or custodian's expense, in a City-approved dog kennel or veterinary

facility within the County or at the owner's or custodian's residence, provided the owner or custodian:

(1) Shall not remove the dog or other animal from the kennel, veterinary facility or residence without the prior written approval of the City or authorized representative; and

(2) Shall make the dog or other animal available for observation and inspection by animal control personnel or members of law enforcement or their authorized representatives.

B. The Police Chief or designee may have a dog or other animal impounded or confined and permanently identified by means of a photo identification prior to release from impound or confinement.

C. Should the animal be held at a veterinary hospital, release of said animal without written authorization of the City Clerk or designee is prohibited.

D. The hearing shall be public with opportunity for both sides to appear after at least ten (10) calendar days' written notice of said hearing.

2. Terms, Conditions and Restrictions. If, at the hearing, the City Clerk or designee determines that the allegations are true, the City Clerk or designee may require reasonable terms and conditions or restrictions for the training, handling or maintenance of the animal to abate the condition which gave rise to the hearing. A license or permit may be revoked if the owner refuses to accept, in writing, any term, condition or restriction, or fails to attend the hearing. Terms, conditions or restrictions may include, but are not limited to:

A. Selection of locations within the owner's property or premises where the animal shall not be kept.

B. Requirements as to size, construction or design or an enclosure where the animal may be kept.

C. Specialized training from a trainer or training program approved by the City to correct any of the animal's behavioral problems.

3. Grounds for Destruction. If the City Clerk or designee determines: 1) that the animal is a vicious animal; 2) that the owner has failed to restrain such animal reasonably; and 3) that it is in the public

interest to destroy such animal, the animal shall be destroyed in a manner deemed appropriate to the City after five (5) days unless the determination is appealed to a court of competent jurisdiction.

(Ord. 310 – May 05 Supp.)

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be 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 days of the date of notice, or if the owner cannot be located within

seven days, the animal may be humanely destroyed or otherwise disposed of in accordance with law.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are as established by the impoundment facility.

(Code of Iowa, Sec. 351.37)

55.16 ANIMAL WASTE. Any person who shall walk an animal on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste except when the animal is on the owner's or keeper's property and except for animals properly trained and certified to assist persons with disabilities while such animals are acting in such capacity. ***(Ord. 290- Jul. 02 Supp.)***

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Calmar 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 the following designated streets:

A. Washington Street to Melden Street;

B. Melden Street from Lewis Street to Clark Street;

C. Clark Street from Melden Street to Washington Street;

D. Washington Street from Clark Street to Lewis Street.

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 Transportation. A copy of this report shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

(Code of Iowa, Sec. 321.273)

60.06 PEACE OFFICER'S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver's license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the

vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

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

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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, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the Code of Iowa.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Funeral Processions
62.07 Tampering with Vehicle
62.08 Open Containers in Motor Vehicles
62.09 Obstructing View at Intersections
62.10 Reckless Driving
62.11 Careless Driving
62.12 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.

2. Section 321.20B – Proof of security against liability.

3. Section 321.32 – Registration card, carried and exhibited; exception.

4. Section 321.37 – Display of plates.

5. Section 321.38 – Plates, method of attaching, imitations prohibited.

6. Section 321.79 – Intent to injure.

7. Section 321.91 – Penalty for abandonment.

8. Section 321.98 – Operation without registration.

9. Section 321.99 – Fraudulent use of registration.

10. Section 321.174 – Operators licensed.

11. Section 321.174A – Operation of motor vehicles with expired license.

12. Section 321.180 – Instruction permits.

13. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.

14. Section 321.193 – Restricted licenses.

15. Section 321.194 – Special minor's licenses.

16. Section 321.216 – Unlawful use of license and nonoperator's identification card.

17. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

18. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.

19. Section 321.219 – Permitting unauthorized minor to drive.

20. Section 321.220 – Permitting unauthorized person to drive.

21. Section 321.221 – Employing unlicensed chauffeur.

22. Section 321.222 – Renting motor vehicle to another.

23. Section 321.223 – License inspected.

24. Section 321.224 – Record kept.

25. Section 321.232 – Radar jamming devices; penalty.

26. Section 321.234A – All-terrain vehicles.

27. Section 321.247 – Golf cart operation on City streets.

28. Section 321.257 – Official traffic control signal.

29. Section 321.259 – Unauthorized signs, signals or markings.

30. Section 321.260 – Interference with devices, signs or signals – unlawful possession

31. Section 321.262 – Damage to vehicle.

32. Section 321.263 – Information and aid.

33. Section 321.264 – Striking unattended vehicle.

34. Section 321.265 – Striking fixtures upon a highway.

35. Section 321.275 – Operation of motorcycles and motorized bicycles.

36. Section 321.276 – Use of electronic communication device while driving; text-messaging.

37. Section 321.278 – Drag racing prohibited.

38. Section 321.281 – Actions against bicyclists.

39. Section 321.288 – Control of vehicle; reduced speed.

40. Section 321.295 – Limitation on bridge or elevated structures.

41. Section 321.297 – Driving on right-hand side of roadways; exceptions.

42. Section 321.298 – Meeting and turning to right.

43. Section 321.299 – Overtaking a vehicle.

44. Section 321.302 – Overtaking on the right.

45. Section 321.303 – Limitations on overtaking on the left.

46. Section 321.304 – Prohibited passing.

47. Section 321.306 – Roadways laned for traffic.

48. Section 321.307 – Following too closely.

49. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

50. Section 321.309 – Towing; convoys; drawbars.

51. Section 321.310 – Towing four-wheel trailers.

52. Section 321.312 – Turning on curve or crest of grade.

53. Section 321.313 – Starting parked vehicle.

54. Section 321.314 – When signal required.

55. Section 321.315 – Signal continuous.

56. Section 321.316 – Stopping.

57. Section 321.317 – Signals by hand and arm or signal device.

58. Section 321.319 – Entering intersections from different highways.

59. Section 321.320 – Left turns; yielding.

60. Section 321.321 – Entering through highways.

61. Section 321.322 – Vehicles entering stop or yield intersection.

62. Section 321.323 – Moving vehicle backward on highway.

63. Section 321.324 – Operation on approach of emergency vehicles.

64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.

65. Section 321.330 – Use of crosswalks.

66. Section 321.332 – White canes restricted to blind persons.

67. Section 321.333 – Duty of drivers.

68. Section 321.340 – Driving through safety zone.

69. Section 321.341 – Obedience to signal of train.

70. Section 321.342 – Stop at certain railroad crossings; posting warning.

71. Section 321.343 – Certain vehicles must stop.

72. Section 321.344 – Heavy equipment at crossing.

73. Section 321.344B – Immediate safety threat – penalty.

74. Section 321.354 – Stopping on traveled way.

75. Section 321.359 – Moving other vehicle.

76. Section 321.362 – Unattended motor vehicle.

77. Section 321.363 – Obstruction to driver's view.

78. Section 321.364 – Preventing contamination of food by hazardous material.

79. Section 321.365 – Coasting prohibited.

80. Section 321.367 – Following fire apparatus.

81. Section 321.368 – Crossing fire hose.

82. Section 321.369 – Putting debris on highway.

83. Section 321.370 – Removing injurious material.

84. Section 321.371 – Clearing up wrecks.

85. Section 321.372 – School buses.

86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

87. Section 321.381A – Operation of low-speed vehicles.

88. Section 321.382 – Upgrade pulls; minimum speed.

89. Section 321.383 – Exceptions; slow vehicles identified.

90. Section 321.384 – When lighted lamps required.

91. Section 321.385 – Head lamps on motor vehicles.

92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

93. Section 321.387 – Rear lamps.

94. Section 321.388 – Illuminating plates.

95. Section 321.389 – Reflector requirement.

96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
105. Section 321.404A – Light-restricting devices prohibited.
106. Section 321.405 – Self-illumination.
107. Section 321.408 – Back-up lamps.
108. Section 321.409 – Mandatory lighting equipment.
109. Section 321.415 – Required usage of lighting devices.
110. Section 321.417 – Single-beam road-lighting equipment.
111. Section 321.418 – Alternate road-lighting equipment.
112. Section 321.419 – Number of driving lamps required or permitted.
113. Section 321.420 – Number of lamps lighted.
114. Section 321.421 – Special restrictions on lamps.
115. Section 321.422 – Red light in front.
116. Section 321.423 – Flashing lights.
117. Section 321.430 – Brake, hitch and control requirements.
118. Section 321.431 – Performance ability.
119. Section 321.432 – Horns and warning devices.
120. Section 321.433 – Sirens, whistles and bells prohibited.
121. Section 321.434 – Bicycle sirens or whistles.
122. Section 321.436 – Mufflers, prevention of noise.
123. Section 321.437 – Mirrors.
124. Section 321.438 – Windshields and windows.
125. Section 321.439 – Windshield wipers.

126. Section 321.440 – Restrictions as to tire equipment.

127. Section 321.441 – Metal tires prohibited.

128. Section 321.442 – Projections on wheels.

129. Section 321.444 – Safety glass.

130. Section 321.445 – Safety belts and safety harnesses – use required.

131. Section 321.446 – Child restraint devices.

132. Section 321.449 – Motor carrier safety regulations.

133. Section 321.450 – Hazardous materials transportation.

134. Section 321.454 – Width of vehicles.

135. Section 321.455 – Projecting loads on passenger vehicles.

136. Section 321.456 – Height of vehicles; permits.

137. Section 321.457 – Maximum length.

138. Section 321.458 – Loading beyond front.

139. Section 321.460 – Spilling loads on highways.

140. Section 321.461 – Trailers and towed vehicles.

141. Section 321.462 – Drawbars and safety chains.

142. Section 321.463 – Maximum gross weight.

143. Section 321.465 – Weighing vehicles and removal of excess.

144. Section 321.466 – Increased loading capacity – reregistration.

(Ord. 345 – Oct. 10 Supp.)

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

(Code of Iowa, Sec. 321.324A)

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

62.08 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

As used in this section "passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic

beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

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

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

(Code of Iowa, Sec. 321.277)

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

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.12 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, that results in excessive, loud, unusual or explosive noise from such vehicle.

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

3. The scheduled fine for a violation of this section is fifty dollars ($50.00).

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots
63.04 Special Speed Restrictions
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

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

A. On Highway 52 E. from Maryville Street to Melden Street;

B. On Highway 150 from Clark Street to 250 feet south of Hancock Street.

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

A. On Highway 52 from 100 feet north of Lewis Street to 100 feet north of North Street;

B. On Highway 52 E. from Melden Street to the corporate line;

C. On Highway 24 from 100 feet west of Washington Street to 100 feet south of Maple Street;

D. On Highway 52 from 100 feet north of North Street to 700 feet north of Railroad Street – northbound only.

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

A. On Highway 24 from 100 feet south of Maple Street to the west corporate limits;

B. On Highway 150 from 250 feet south of Hancock Street to south corporate limits.

4. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Highway 52 from 700 feet north of Railroad Street to the north corporate limits – northbound only;

B. On Highway 52 from the north corporate limits to 100 feet south of Railroad Street – southbound only.

(Ord. 337 – Mar. 09 Supp.)

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns
64.03 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

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

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

1. At the intersection of Maryville Street and North Street;

2. At the intersection of Maryville Street and South Street;

3. At the intersection of Maryville Street and Clark Street.

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Yield Required
65.05 School Stops
65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. State Highway 24 (Charles Street) from west corporate limits to Main Street;

2. Main Street from Charles Street to the east corporate limits;

3. State Highway 150 (Maryville Street) from south corporate limits to the north corporate limits.

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

(Code of Iowa, Sec. 321.345)

1. Peter Street. Vehicles traveling on Peter Street shall stop at Clark Street;

2. Frederick Street. Vehicles traveling south on Frederick Street shall stop at Clark Street;

3. Hilma Street. Vehicles traveling north on Hilma Street shall stop at Clark Street;

4. West Street. Vehicles traveling on West Street shall stop at Clark Street;

5. South Street. Vehicles traveling on South Street shall stop at Webster Street;

6. Clay Street. Vehicles traveling on Clay Street shall stop at Webster Street;

7. Clark Street. Vehicles traveling on Clark Street shall stop at Webster Street;

8. Washington Street. Vehicles traveling on Washington Street shall stop at South Street;

9. Clay Street. Vehicles traveling on Clay Street shall stop at Washington Street;

10. Clark Street. Vehicles traveling on Clark Street shall stop at Washington Street;

11. Melden Street. Vehicles traveling on Melden Street shall stop at Clay Street;

12. Melden Street. Vehicles traveling on Melden Street shall stop at Clark Street;

13. Melden Street. Vehicles traveling on Melden Street shall stop at Lewis Street;

14. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at Clark Street;

15. Clark Street. Vehicles traveling east on Clark Street shall stop at Iowa Street;

16. Henry Street. Vehicles traveling on Henry Street shall stop at Melden Street;

17. Charles Street. Vehicles traveling north on Charles Street shall stop at North Street;

18. East Street. Vehicles traveling south on East Street shall stop at Lewis Street;

19. Henry Street. Vehicles traveling east on Henry Street shall stop at East Street;

20. North Street. Vehicles traveling east on North Street shall stop at East Street;

21. Hallbeck Street. Vehicles traveling east on Hallbeck Street shall stop at East Street;

22. Lewis Street. Vehicles traveling on Lewis Street shall stop at Charles Street;

23. Iowa Street. Vehicles traveling on Iowa Street shall stop at Clay Street;

24. Elm Street. Vehicles traveling on Elm Street shall stop at South Charles Street (Highway 24);

25. Hamlin Street. Vehicles traveling south on Hamlin Street shall stop at Hancock Street;

26. Charles Street, railroad tracks from north and south;

27. Meldon Street, railroad tracks from north and south;

28. East Street, railroad tracks from north and south
(#26-28 – Ord. 313 – Sep. 05 Supp.)

29. Alley between West Main Street and West Clark Street at its intersection with South Charles Street; ***(Ord. 354 – Sep. 12 Supp.)***

30. Alley crossing east and west at North Washington Street between West Main Street and the railroad tracks. ***(Ord. 354 – Sep. 12 Supp.)***

31. Vehicles traveling south on Hilma Street shall stop at Clay Street.
(Ord. 355 – Nov. 12 Supp.)

32. Vehicles traveling west on Hancock Street shall stop at its intersection with Howard Street. ***(Ord. 358 – Jun. 13 Supp.)***

33. S. Jefferson Street. Vehicles traveling south on Jefferson Street shall stop at its intersection with E. Clay Street. ***(Ord. 364 – Jul. 14 Supp.)***

34. Railroad Street. Vehicles traveling east on Railroad shall stop at its intersection with N. Jefferson Street. ***(Ord. 367 – Oct. 14 Supp.)***

35. S. Washington Street. Vehicles traveling south on S. Washington Street shall stop at its intersection with Hancock Street.
(Ord. 364 – Jul. 14 Supp.)

36. East Street traveling north at its intersection with Lewis Street.

37. East Lewis Street at its intersection with East Street.
(#36 and 37 – Ord. 372 – Jan. 15 Supp.)

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

1. Intersection of Main Street and Maryville Street;

2. Intersection of Main Street and Charles Street;

3. Intersection of Webster Street and Clay Street;

4. Intersection of Washington Street and Clay Street.

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

(Code of Iowa, Sec. 321.345)

1. Hamlin Street. Vehicles traveling north on Hamlin Street shall yield at Hancock Street.

2. West Henry Street at its intersection with North Charles Street.

3. South Charles Street at its intersection with West Clay Street.

(Ord. 361 – Feb. 14 Supp.)

4. Jefferson Street. Vehicles traveling south shall yield at its intersection with east North Street. ***(Ord. 364 – Jul. 14 Supp.)***

5. N. Meldon Street. Vehicles traveling south shall yield at its intersection with east North Street. ***(Ord. 364 – Jul. 14 Supp.)***

6. Jefferson Street. Vehicles traveling north shall yield at its intersection with east North Street. ***(Ord. 364 – Jul. 14 Supp.)***

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

(Code of Iowa, Sec. 321.249)

1. Intersection of Clay Street and Maryville Street;

2. Intersection of South Street and Maryville Street;

3. Intersection of South Street and Charles Street;

4. Intersection of Elm Street and Charles Street;

5. Intersection of West South Street and South Washington Street.

(Ord. 361 – Feb. 14 Supp.)

65.06 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)

65.07 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.

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

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

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of four (4) tons on any City streets except for the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

1. Highway 150 from north corporate limits to south corporate limits;
2. Highway 24 from west corporate limits to Main Street;
3. Main Street from Charles Street to east corporate limits;
4. Clark Street from Charles Street to Hilma Street.

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

person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. North town square parking lot shall be eastbound only from Maryville Street to Main Street;

2. South town square parking lot shall be eastbound only from Maryville Street to Main Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb - One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Truck Parking Limited
69.10 Parking Limited to Two Hours
69.11 Snow Removal/Snow Emergency
69.12 Fire Lanes
69.13 Controlled Access Facilities
69.14 Recreational Vehicle Parking Limited

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Washington Street on the west side from Main Street to alley way;
2. North and south town square parking lots.

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

(Code of Iowa, Sec. 321.361)

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

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

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

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

1. Crosswalk. On a crosswalk.

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

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

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

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

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

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

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, Sec. 321.358 [6])

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

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

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

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358 [13])

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to

avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

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

1. North Alley on the north and south sides from Melden Street to Webster Street;

2. South Alley on the north and south sides from Jefferson Street to Charles Street;

3. No parking on the east side of Webster Street between Clay Street and South Street between the hours of 6:00 A.M. and 4:00 P.M., Monday thru Friday; ***(Ord. 370 – Nov. 14 Supp.)***

4. Melden Street on the west and east sides between the South Alley and Clark Street;

5. West Street on the west side from Lewis Street to Main Street and from Clark Street to Maple Street; ***(Ord. 343 – Jan. 10 Supp.)***

6. Melden Street on the east side from Main Street north to the alley;

7. Henry Street on the south side from Washington to Charles Street;

8. Lewis Street on the south side from Maryville to Jefferson Street;

9. West Street on the west side from Clark to Clay Street;

10. Hancock Street on the south side from Maryville west to Washington Street.

11. Henry Street on the north side from Webster to North Charles Street.

12. South Street on the north side from Washington to Webster Street. ***(Ord. 341 – May 09 Supp.)***

13. North Maryville Street from Lewis Street to North Street east and west side of the street. ***(Ord. 362 – Jul. 14 Supp.)***

14. South Maryville Street from Clark Street to South Street east and west side of the street. ***(Ord. 362 – Jul. 14 Supp.)***

15. West Main Street from Washington to Charles on the south side of the street and West Main Street from Webster to Charles on the north side of the street. ***(Ord. 362 – Jul. 14 Supp.)***

16. South Hamlin Street from Hancock to the dead end to the south on the east side of the street. ***(Ord. 362 – Jul. 14 Supp.)***

17. No Parking north side of Main Street between Jefferson and Melden Streets. ***(Ord. 367 – Oct. 14 Supp.)***

18. No parking on the north side of South Street between Washington Street and Melden Street between the hours of 6:00 A.M. and 4:00 P.M., Monday thru Friday;

19. No parking on the south side of Clay Street between South Washington Street and Webster Street (except from the middle part of the block to Webster Street which is Bus Parking Only) between the hours of 6:00 A.M. and 4:00 P.M., Monday thru Friday.

(Subsections 18 and 19 – Ord. 370 – Nov. 14 Supp.)

20. North Street on the north and south sides from north Maryville Street to 175th Street.

21. North side of West Clark Street from S. Charles Street to the west city limits from April 1st thru December 1st.

(Subsections 20 and 21 – Ord. 379 – Oct. 15 Supp.)

69.09 TRUCK PARKING LIMITED. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended a motor truck, semi-trailer, or other motor vehicle with trailer attached 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. The provisions of this section do not apply to pick-up, light delivery or panel delivery trucks.

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

1. ***Repealed by Ord. 362 – Jul. 14 Supp.***

2. No trucks, no semi-tractor and/or trailer truck parking of vehicles over four (4) tons shall be parked on the asphalt parking lot on Lewis Street between Maryville and Melden Streets. ***(Ord. 338 – Mar. 09 Supp.)***

69.10 PARKING LIMITED TO TWO HOURS. It is unlawful to park any vehicle for a continuous period of more than two (2) hours between the hours of nine o'clock (9:00) a.m. and five o'clock (5:00) p.m. on each weekday upon the following designated streets. ***(Ord. 367 – Oct. 14 Supp.)***

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

69.11 SNOW REMOVAL/SNOW EMERGENCY. Whenever the City experiences a snow fall which accumulates to a depth of three inches or more, a snow emergency shall automatically be in effect and all procedures prescribed by this chapter shall be observed by all persons. The street superintendent shall utilize at his discretion all available communications media in the community to give notice to the public that a snow emergency is in effect, but failure of a person to receive such notice shall not constitute a defense to any prosecution for violation of the rules, regulations and procedures prescribed by this chapter where a snow accumulation of three inches or more has occurred.

1. While a snow emergency is in effect, curbside parking of motor vehicles shall be permitted only as follows:

A. All vehicles shall be parked on the side of the street where buildings bear even numbers, until such time as the snow has been removed or plowed from the opposite side of the street where buildings bear odd numbers, until such time as the snow has been removed or plowed from the opposite side of the street.

B. No uptown parking, this includes Maryville and Main Streets and the north and south parking lots from 2:00 a.m. thru 6:00 a.m. from November 1st thru April 1st.

(Ord. 359 – Nov. 13 Supp.)

C. Such plan of alternate parking shall supersede all posted parking restriction signs until the completion of snow removal from both sides of any given street within the City limits, after which regularly established parking regulations shall resume and shall be observed by all persons.

D. No parking on the west side of Washington Street from South Street to Hancock Street from November 1st thru April 1st.

(Ord. 384 – Dec. 15 Supp.)

2. Removing Violators From the Street. In case any motor vehicle is found parked on any street or alley or parking lot in the City in violation of established or snow emergency restrictions, the Police Department or Street department or anyone under their direction is authorized to move such vehicle and to tow such vehicle to a designated impounding area at the owner's expense. When such vehicle is reclaimed by its owner, there shall be assessed, in addition to any court-imposed fine and costs, a reasonable fee for towing and storage. Neither the City nor its employees or agents designated to move vehicles in accordance with the provisions of this chapter shall be responsible for any damage to such vehicle occasioned by such moving, towing or storage.

3. Interference With Snow Removal. Any vehicle parked or standing on any street or alley or parking lot in violation of any provision of this chapter so as to interfere with prompt and orderly snow removal is declared to be a nuisance, and in addition to being subject to removal and impounding, may be ticketed for illegal parking, and its owner, upon conviction, shall be deemed guilty of a misdemeanor and shall be subject to a fine of $25.00.

4. Reclaiming Impounded Vehicles. Any person who removes an impounded vehicle from any police-designated impounding area without first paying all fines, cost, towing and storage charges, is guilty of a misdemeanor under this chapter.

(Ord. 311 – Sep. 05 Supp.)

69.12 FIRE LANES. No person shall stop, stand or park a vehicle in a fire lane as provided herein.

(Code of Iowa, Sec. 321.236)

1. Fire Lanes Established. The Police Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.

2. Signs and Markings. Wherever a fire lane has been designated, the Police Chief shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.

3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

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

69.14 RECREATIONAL VEHICLE PARKING LIMITED. No person shall park or leave unattended a recreational vehicle on public or private property except as specified hereinafter:

1. Public Property. Recreational vehicles may stop or park on any public street or highway or public property for not longer than 2 days subject to any other and further limitations imposed by traffic and parking regulations and/or ordinances for that street or highway.

(Ord. 375 – May 15 Supp.)

2. Private Property – Recreational vehicles may be parked or stored on private property. Recreational vehicles so parked or stored may be occupied on a temporary basis for a period not to exceed two days in any one month period.

(Ord. 371 – Dec. 14 Supp.)

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

(Code of Iowa, Sec. 805. &, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars ($15.00) for all violations except snow route parking violations, improper use of a persons with disabilities parking permit and violations of weight limit on City parking lot. 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 twenty-five dollars ($25.00), the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00) and the simple notice of weight limit on City parking lot is seventy-five dollars ($75.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court. ***(Ord. 363 – Jul. 14 Supp.)***

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

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

4. Parked Over Forty-eight Hour Period. When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

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

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle, with not less than three (3) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. "Off-road utility vehicle" means a motorized flotation-tire vehicle, with not less than four (4) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street. ***(Ord. 346 – Oct. 10 Supp.)***

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

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

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

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

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

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars ($1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

(Ch. 75 – Ord. 332 – Jan. 08 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway
76.08 Carrying Articles
76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Extension of Time
80.06 Fees for Impoundment
80.07 Disposal of Abandoned Vehicles
80.08 Disposal of Totally Inoperable Vehicles
80.09 Proceeds from Sales
80.10 Duties of Demolisher

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

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

1. "Abandoned vehicle" means any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means 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 state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. 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 lienholders 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, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the

personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten (10) day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (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 lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 EXTENSION OF TIME. The owner, lienholders 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, lienholder or claimant shall pay twenty-five dollars ($25.00) if claimed within five (5) days of impounding, plus five dollars ($5.00) for each additional day within the reclaiming period 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.

(Ord. 315 – May 06 Supp.)

(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])

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

2. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

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

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

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

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

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

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

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions
90.02 Superintendent's Duties
90.03 Mandatory Connections
90.04 Abandoned Connections
90.05 Permit
90.06 Tapping Fee
90.07 Compliance with Plumbing Code
90.08 Plumber Required
90.09 Excavations
90.10 Tapping Mains
90.11 Installation of Water Service Pipe
90.12 Responsibility for Water Service Pipe
90.13 Failure to Maintain
90.14 Curb Valve
90.15 Interior Valve
90.16 Inspection and Approval
90.17 Completion by the City
90.18 Shutting off Water Supply
90.19 Operation of Curb Valve and Hydrants

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

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

temporary rules for the protection of the system until due consideration by the Council may be had.

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

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

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

90.05 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 sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the 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.

90.06 TAPPING FEE. Before any permit is issued the person who makes the application shall pay a tapping fee of one hundred dollars ($100.00) to the Clerk. ***(Ord. 303 – Jun. 04 Supp.)***

(Code of Iowa, Sec. 384.84)

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

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension,

unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of one thousand dollars ($1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars ($1,000.00) may be filed with the City.

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

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

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

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

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

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

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a

record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. 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 Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems- Exception
91.04 Location of Meters
91.05 Meter Setting
91.06 Meter Costs
91.07 Meter Repairs
91.08 Right of Entry
91.09 Meter Installation Fee
91.10 Separate Meter for Outside Watering

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

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

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

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

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

91.06 METER 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 Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of

the customer or property owner, 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 Superintendent 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. The fee for size of meter will go into effect at the time the City changes out a current meter with a City-purchased meter.

91.10 SEPARATE METER FOR OUTSIDE WATERING. For water not being returned to the City's sanitary sewer system, property owners have the option of a permanent or non-permanent separate water meter for outside watering. The property owner shall make a written request for a separate water meter.

The property owner shall pay the City a fee of $25.00 for a non-permanent or temporary meter. The meter will be installed by the City. It is the property owners responsibility to see that the meter is removed during the winter months. The property owner will be responsible for the cost to replace the meter if damaged due to negligence. The property owner shall pay the current rate for water consumed through this separate meter as outlined in Chapter 92, but shall not be billed for the sewer usage as outlined in Chapter 99.

All outside water meters that are permanently installed in a home shall be installed by a plumber at the home owners expense. The cost of these permanent meters will be billed to the home owner at the current price at the time of installation. The property owner shall pay the current rate for water consumed through this permanent meter as outlined in Chapter 92, but shall not be billed for sewer usage as outlined in Chapter 99.

(Ord. 373 – May 15 Supp.)

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates and Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued
92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice

92.01 SERVICE CHARGES. Each customer shall pay a monthly fee of $5.00 for capital improvements to the utility system; and in addition 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)

(Ord. 366 – Oct. 14 Supp.)

92.02 RATES AND SERVICE. Water service shall be furnished at the following monthly rates within the City limits of Calmar, Iowa:

(Code of Iowa, Sec. 384.84)

1. First 1,000 gallons used per month @ $15.00 (minimum bill) with 3/4" meter or smaller.

   First 1,000 gallons used per month @ $22.00 (minimum bill) with 1" meter.

   First 1,000 gallons used per month @ $28.00 (minimum bill) with 1¼" meter.

   First 1,000 gallons used per month @ $34.00 (minimum bill) with 1½" meter.

   First 1,000 gallons used per month @ $40.00 (minimum bill) with 2" meter.

   First 1,000 gallons used per month @ $46.00 (minimum bill) with 3" meter.

   First 1,000 gallons used per month @ $52.00 (minimum bill) with 4" meter.

2. Next 29,000 gallons used per month @ $3.00 per thousand gallons.

3. Excess gallons used per month @ $2.50 per thousand gallons.

(Ord. 340 – Jul. 09 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be furnished at the following monthly rates outside the City limits of Calmar, Iowa:

(Code of Iowa, Sec. 384.84)

1. First 1,000 gallons used per month @ $21.00 (minimum bill) with 3/4" meter or smaller.

   First 1,000 gallons used per month @ $25.00 (minimum bill) with 1" meter.

   First 1,000 gallons used per month @ $32.00 (minimum bill) with 1¼" meter.

   First 1,000 gallons used per month @ $39.00 (minimum bill) with 1½" meter.

   First 1,000 gallons used per month @ $46.00 (minimum bill) with 2" meter.

   First 1,000 gallons used per month @ $53.00 (minimum bill) with 3" meter.

   First 1,000 gallons used per month @ $60.00 (minimum bill) with 4" meter.

2. Next 29,000 gallons used per month @ $5.00 per thousand gallons.

3. Excess gallons used per month @ $3.00 per thousand gallons.

The fee for size of meter will go into effect at the time the City of Calmar changes out a current meter with a City-purchased meter.

A late fee in the amount of 15% shall be assessed on the unpaid balance if not paid on or before the due date. In the event that a customer's door requires posting due to nonpayment after issuance and nonpayment of a disconnect notice, a $10.00 service fee will be charged. Should the customer require disconnection for nonpayment, a $25.00 reconnection fee will be charged.

(Ord. 340 – Jul. 09 Supp.)

92.04 BILLING FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Meter Read. Water meters shall be read on a monthly basis, possible estimate in emergency.

2. Bills Issued. The Clerk shall prepare and issue bills for water service on a monthly basis, following the reading or estimating of meters.

3. Bills Payable. Bills for water service shall be due and payable at the office of the Clerk within fifteen (15) days of the date of issue.

(Ord. 340 – Jul. 09 Supp.)

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 Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance. In the event that a customer's door requires posting due to nonpayment after issuance of a disconnect notice, a $10.00 service fee shall be charged.

(Ord. 336 – Sep. 08 Supp.)

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property. ***(Ord. 353 – Sep. 12 Supp.)***

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of twenty-five dollars ($25.00) 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 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 a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. In addition, a lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services. ***(Ord. 353 – Sep. 12 Supp.)***

(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 in whose name the delinquent charges were incurred. 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 thirty (30) days prior to certification of the lien to the County Treasurer. ***(Ord. 336 – Sep. 08 Supp.)***

(Code of Iowa, Sec. 384.84)

[The next page is 415]

CHAPTER 93

WATER WELL PROTECTION

93.01 Definitions
93.02 Well Restrictions
93.03 Shallow Well Protection
93.04 Deep Well Protection
93.05 Exception
93.06 Nonconforming Uses

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

1. "Deep public well" means a public well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.

2. "Drinking water well" means any groundwater well used as a source of drinking water by humans and any groundwater wells used primarily for the final production of food or medicine for human consumption in facilities routinely characterized with the Standard Industrial Codes (SIC) Group 283 for medicine and Group 20 for foods.

3. "Non-drinking water well" means any groundwater well (except an extraction well used as part of a remediation system) not defined as a drinking water well including a groundwater well which is not properly plugged in accordance with the Iowa Department of Natural Resources rules as stated in the 567 Iowa Administrative Code, Chapters 39 and 49.

4. "Shallow public well" means a public well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.

93.02 WELL RESTRICTIONS. No person within the City of Calmar shall drill, construct or use a "drinking water well" or "non-drinking water well" for use within the corporate City limits where public water is reasonably available in accordance with Section 90.03 of this Code of Ordinances and as determined by the City. No work to drill, construct or use a well shall begin unless a valid permit has first been issued by the City.

93.03 SHALLOW WELL PROTECTION. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from a shallow public well within the City.

1. Well house floor drains to ground surface — 5 feet;

2. Water treatment plant wastes to ground surface — 50 feet;

3. Sanitary and industrial discharges to ground surface — 400 feet;

4. Floor drains from pump house to surface:

   A. None within 5 feet;

   B. 5 to 10 feet — water main materials enclosed in concrete permitted;

   C. 10 to 25 feet — must be water main material;

   D. 25 to 75 feet — must be watertight sewer pipe;

5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:

   A. None permitted within 25 feet;

   B. 25 to 75 feet, must be water main material;

   C. 75 to 200 feet, must be watertight sewer pipe;

6. Force mains:

   A. None permitted within 75 feet;

   B. 75 to 400 feet, must be water main materials;

7. Land application of solid waste — 200 feet;

8. Irrigation of wastewater — 200 feet;

9. Concrete vaults and septic tanks — 200 feet;

10. Mechanical wastewater treatment plants — 400 feet;

11. Cesspools and earth pit privies — 400 feet;

12. Soil absorption fields — 400 feet;

13. Lagoons — 1,000 feet;

14. Chemicals:

   A. Application to ground surface — 200 feet;

   B. Above ground chemical or mineral storage — 200 feet;

   C. On or underground storage — 400 feet;

15. Animal pasturage — 50 feet;

16. Animal enclosure — 200 feet;

17. Animal wastes:

A. Land application of solids — 200 feet;

B. Land application of liquid or slurry — 200 feet;

C. Storage tank — 200 feet;

D. Solids stockpile — 400 feet;

E. Storage basin or lagoon — 1,000 feet;

18. Earthen silage storage trench or pit — 200 feet;

19. Basements, pits, sumps — 10 feet;

20. Flowing streams or other surface water bodies — 50 feet;

21. Cisterns — 100 feet;

22. Cemeteries — 200 feet;

23. Private wells — 400 feet;

24. Solid waste disposal sites — 1,000 feet.

93.04 DEEP WELL PROTECTION. No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from a deep public well within the City.

1. Well house floor drains to ground surface — 5 feet;

2. Water treatment plant wastes to ground surface — 50 feet;

3. Sanitary and industrial discharges to ground surface — 400 feet;

4. Floor drains from well house to surface:

A. None within 5 feet;

B. 5 to 10 feet — water main materials enclosed in concrete permitted;

C. 10 to 25 feet — must be water main material;

D. 25 to 75 feet — must be watertight sewer pipe;

5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:

A. None permitted within 25 feet;

B. 25 to 75 feet, must be water main material;

C. 75 to 200 feet, must be watertight sewer pipe;

6. Force mains:

A. None permitted within 75 feet;

B. 75 to 400 feet, must be water main materials;

7. Land application of solid waste — 100 feet.

(Ch. 93 – Ord. 292 – Aug. 03 Supp.)

8. Irrigation of wastewater — 100 feet;
9. Concrete vaults and septic tanks — 100 feet;
10. Mechanical wastewater treatment plants — 200 feet;
11. Cesspools and earth pit privies — 200 feet;
12. Soil absorption fields — 200 feet;
13. Lagoons — 200 feet;
14. Chemicals:
    A. Application to ground surface — 100 feet;
    B. Above ground storage — 100 feet;
    C. On or underground storage — 200 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 100 feet;
17. Animal wastes:
    A. Land application of solids — 100 feet;
    B. Land application of liquid or slurry — 100 feet;
    C. Storage tank — 100 feet;
    D. Solids stockpile — 200 feet;
    E. Storage basin or lagoon — 200 feet;
18. Earthen silage storage trench or pit — 100 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 50 feet;
22. Cemeteries — 200 feet;
23. Private wells — 200 feet;
24. Solid waste disposal sites — 200 feet.

93.05 EXCEPTION. Proscriptions as set forth in Section 93.03 and 93.04 apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

93.06 NONCONFORMING USES. The use of structures or facilities existing at the time of the enactment of Ordinance No. 307 (January 3, 2005), may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to the date of adoption of such ordinance.

(93.04(8-24), 93.05 & 93.06 added by Ord. 307 – Jan. 05 Supp.)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

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

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

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

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

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

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain

which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred fifty (150) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12 [3f])
(IAC, 567-69.1[3])

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

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

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

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

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

96.01 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 CONNECTION CHARGE. The person who makes the application shall pay a connection charge in the amount of one hundred fifty dollars ($150.00) to the Clerk before connecting to the sewer service.

(Ord. 304 – Jun. 04 Supp.)

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

the minimum sum of one thousand dollars ($1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars ($1,000.00) may be filed with the City.

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

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

A. Recommended grade at one-fourth (¼) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

A. Clay sewer pipe - A.S.T.M. C-700 (extra strength).

B. Extra heavy cast iron soil pipe - A.S.T.M. A-74.

C. Ductile iron water pipe - A.W.W.A. C-151.

D. P.V.C. - SDR26 - A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

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

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

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes

in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

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

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

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

and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

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

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

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

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (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 Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues)

or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

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

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

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

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

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

(IAC, 567-69.1[3 & 4])

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

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay a monthly fee of $5.00 for capital improvements to the municipal sanitary sewer system; and in addition each customer shall pay to the City sewer service fees hereinafter provided. ***(Ord. 365 – Oct. 14 Supp.)***

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each dwelling unit, apartment unit, mobile home, house, business and industry shall be considered as one sewer account and shall pay a base rate of $25.00 per month for sanitary sewer service. The Northeast Iowa Community College (NICC) shall pay a base rate of $500.00 (20 units) per month for sanitary sewer service. The South Winneshiek Community School shall pay a base rate of $175.00 (7 units) per month for sanitary sewer service.

1. Every customer or account shall also pay a sanitary sewer usage fee of $6.50 per month for each one thousand (1,000) gallons of wastewater treated by the City.

In no case shall the minimum service charge be less than $25.00 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

(Ord. 305 – Jun. 04 Supp.)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent 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 Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable 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. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. ***(Ord. 353 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

CHAPTER 100

WASTEWATER INDUSTRIAL USE

100.01 Definitions
100.02 Treatment Agreement
100.03 In-Plant Requirements
100.04 Operating Costs
100.05 Operations, Enforcement and Penalties

100.01 DEFINITIONS. Wherever the following terms are used in this chapter, they shall be defined as follows:

1. "Biochemical oxygen demand (BOD_5)," "total suspended solids," "dissolved oxygen," "ammonia nitrogen," "pH," "phosphorus," "oil" and "grease" shall be defined as they are defined in the Iowa Department of Natural Resources *Standards for Compatible Wastes*.

2. "Heavy metals" (if required) shall be defined as in the Iowa Department of Natural Resources *Standards for Incompatible Wastes*.

3. "Hydraulic contribution" refers to the measured rate of flow of wastewater.

4. "IDNR" means Iowa Department of Natural Resources.

5. "Industrial waste" means wastewater discharged by industries, industrial users, or major industrial contributors.

6. "Industry" as used herein means the same as "industrial user" or "major industrial contributor." "Industry" means:

A. Any nongovernmental or nonresidential user of a publicly owned treatment works which discharges more than the equivalent of ten percent (10%) of the BOD_5 or total suspended solids loading to the treatment plant or twenty-five thousand gallons per day of domestic or sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A – Agriculture, forestry and fishing.

Division B – Mining.

Division D – Manufacturing.

Division E – Transportation, communications, electric, gas and sanitary sewers.

Division I – Services.

For the purpose of this definition, "domestic or sanitary waste" shall be considered to have the following characteristics:

BOD_5 less than 500 mg/l

Suspended solids less than 500 mg/l

B. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment facilities.

7. "System" means the entire wastewater system of the City, including collection mains, lift stations, treatment plant, sludge handling, and outfall lines. Included are all physical facilities of the said utility required to process wastewater from its collection to its eventual disposition as effluent, and any future sludge removal in accordance with requirements and approval of the Iowa Department of Natural Resources (IDNR) and the U.S. Environmental Protection Agency (EPA) and such other governmental agencies as are charged with the duty of regulating waste waters, their treatment, and disposal.

8. "Wastes," "wastewater" and "sewage" as used in this chapter include liquid industrial wastes and sanitary waste from the industry. Said waste flows shall not be discharged to the system if they contain more than permitted concentration of any of the parameters listed in either a Treatment Agreement or this chapter.

100.02 TREATMENT AGREEMENT. The City and industry may enter into a Treatment Agreement providing for limits and parameters for the discharge of wastes to the system and providing the penalties for violations thereof.

100.03 IN-PLANT REQUIREMENTS.

1. Only wastes capable of being properly treated in the treatment plant are to be discharged by the industry to the system. The industry shall implement any internal flow equalization, waste modification or pretreatment measures required to maintain the treatability of its wastewater.

2. The industry shall keep grit in its wastewater discharge to a minimum at all times to prevent problems in the collection system.

3. The industry shall provide and maintain its own sampling and any needed pretreatment facilities for the purpose of assuring compliance with agreement limits of wastewater pollutants. Said facilities shall be properly maintained at the industry's expense, but shall be made available at no cost to the City, for sampling purposes. Test results on industrial samples shall be made available to the industry. If desired by the industry, samples shall be shared with the industry.

4. The City shall be given access to results of any tests performed on industry's wastewater if required for compliance with NPDES Permit and Treatment Agreement requirements.

100.04 OPERATING COSTS.

1. All operating costs of sampling and pretreatment equipment at the industry shall be at the expense of the industry.

2. The industry is responsible for costs of all sampling and analysis required by IDNR on the industry's wastes. The industry is also responsible for all costs of sampling and analysis performed to test for certain pollutants in the City's waste if said waste testing is required by IDNR only because the industry discharges said pollutants.

3. The industry will be responsible for any fines or legal costs and all additional testing, cleaning, repairs, or removal charges encountered by the City due to the discharge by the industry of pollutants in excess of permitted values.

4. The industry will also be responsible for all expenses involved in any study of the system deemed necessary by IDNR to ascertain the source of particular pollutants suspected of originating with the industry. The City will document the need for said study to the industry.

100.05 OPERATIONS, ENFORCEMENT AND PENALTIES.

1. The City shall make available to industry a copy of test results made on industrial samples each month.

2. In event of overload, violation of agreement or this chapter, malfunction of the system, and for any studies of the system in connection with such items, the City may require the industry to furnish (within one week) complete and accurate records of input, output, storage, and type of production for examination by the City's engineer.

In the event the industry fails to comply, the City may apply to any Judge of the First Judicial District for subpoena requiring production records to be submitted for a period of forty-eight (48) hours for examination. Information turned over to it or its engineer in accordance with this subsection is confidential, and the City shall treat it as such, using it only for the purposes set forth in this subsection and for purposes of determining whether or not there has been a breach or violation of any kind under the terms of agreement or this chapter.

3. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industry, industrial user, or major industrial contributor whereby an industrial waste of unusual quantity, strength or character may be accepted by the City for treatment, subject to payment therefor, by the industry.

4. The discharge of wastes to the system by the industry shall not at any time exceed the limits set forth in any treatment agreement between the City and industry, signed by the industry. Each parameter discharge beyond any of these limits shall be considered a discharge excess with a penalty as described below:

A. The penalty for each discharge excess of compatible-waste parameters (flow, BOD_5, suspended solids, pH, and ammonia) shall be $1,000.00.

B. The penalty for each discharge excess of incompatible waste parameters (heavy metals, toxic organics, etc.) shall be $5,000.00.

The above monetary penalties are in addition to any payment by the industry to cover additional costs to the City to deal with the discharge excess.

5. If the industry immediately notifies the City following an accident which causes an excess and properly helps the City to act to mitigate the effects of the excess, the above described penalties may be reduced or eliminated at the City's discretion.

6. The City may require reduction of processing to bring the industry's discharge into limits. The City may require cessation of all production if the violation found is a continuing one not susceptible to immediate reasonable remedy, such cessation to continue until the condition causing said violation has been rectified.

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CHAPTER 105

SOLID WASTE CONTROL

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

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

105.02 DEFINITIONS. For use in 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, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final

disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

(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. School Bonfires. School bonfires or bonfires conducted by nonprofit organizations, church groups or similar types of organizations, provided that a permit has been obtained from the Clerk authorizing such bonfire, the application for said permit to be provided by the Clerk.

5. 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])

6. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

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. Leaves. Burning of leaves shall be allowed from April 1st through May 15th and from September 15th through November 15th, providing that such burning shall only occur during the specified months between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m., and further provided that an adult is present at all times to supervise the burning. No burning shall be allowed on the blacktop or paved surface of any street or alley or in curbs and gutters within the City limits.

(Ord. 294 – Aug. 03 Supp.)

9. 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])

In no event shall any person burn or cause to be burned any materials on any public or private land within one hundred fifty (150) feet of any magazine or

tank used to store flammable materials of any nature or description or within dangerous proximity of any building or structure within the City.

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 leaves may be burned in accordance with Section 105.05) or hauled to the City compost 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:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

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

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

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

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

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Winneshiek 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
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collector's License
106.08 Landfill Fee
106.09 Lien for Nonpayment
106.10 Collection of Fees

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by the City.

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 COLLECTOR'S LICENSE. ***(Deleted by Ordinance No. 298 – Dec. 03 Supp.)***

106.08 LANDFILL FEE. ***(Deleted by Ordinance No. 298 – Dec. 03 Supp.)***

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 353 – Sep. 12 Supp.)

(Code of Iowa, Sec. 384.84)

106.10 COLLECTION OF FEES. The collection and disposal of refuse as provided by this section is declared to be a benefit to the property served, and therefore, a mandatory fee shall be levied and collected. At no time will this collection fee be waived unless the premises is being permanently vacated. A dwelling unit which has been permanently vacated may or may not be disconnected from the City water system by having its water meter removed but shall be empty of all owners' or tenants' possessions, and owners or tenants shall have no intention of reoccupying the premises at any time in the future. A fee shall be levied and collected as set out hereinafter.

1. Fees. The City Council shall establish by appropriately adopted resolution fees for refuse collection and disposal services for residential, commercial, industrial and institutional establishments within the City limits of the City.

2. Payment of Fees. The fees provided shall be due and payable to the City Clerk, City of Calmar on or before the 5th day of each month.

3. Late Payment Penalty. Fees not paid when due shall be deemed delinquent and a late penalty of fifteen percent (15%) shall be added.

4. Payment to Collector. The City Clerk shall pay the collector by the month the amount due for that month.

(Ord. 298 – Dec. 03 Supp.)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Term—Periodic Review
110.03 Governing Rules and Regulations
110.04 Franchise Fees
110.05 Construction and Maintenance of Company Facilities
110.06 Extension of Company Facilities
110.07 Relocation of Company Facilities
110.08 Eminent Domain
110.09 Confidential Information
110.10 Force Majeure
110.11 Hold Harmless

110.01 FRANCHISE GRANTED. The City of Calmar, Iowa, (hereinafter referred to as "Grantor") hereby grants a non-exclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation, (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

110.02 TERM – PERIODIC REVIEW. The rights and privileges granted by this franchise shall remain in effect for a period of twenty-five (25) years from the effective date thereof. Grantor shall have the right to review and if it in its sole discretion deems appropriate, terminate the franchise granted by the ordinance codified by this chapter[†]. The right to review and terminate the franchise may be exercised by Grantor on the following dates: Five (5) years from the date of enactment, ten (10) years from the date of enactment, fifteen (15) years from the date of enactment and twenty (20) years from the date of enactment of the ordinance. In the event, Grantor elects to terminate the franchise, Grantor through its Clerk, shall notify Grantee in writing at least one hundred and eighty (180) days before the effective date of termination.

110.03 GOVERNING RULES AND REGULATIONS. This franchise is granted subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate

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[†] **EDITOR'S NOTE:** Ordinance No. 314 , adopting a natural gas franchise for the City, was passed and adopted on May 1, 2006.

limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. 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 Grantor shall renegotiate the terms of this franchise in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this franchise ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

110.04 FRANCHISE FEES. Grantor may, during the term of this franchise, in its discretion after public hearing, but not more than once a year, and upon an affirmative vote of Grantor's City Council, impose a franchise fee on customers located within the corporate City limits of Grantor in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by Grantor must be based on one of the following methods: 1) Percentage of gross receipts of regulated sales or transportation revenues collected within the City, 2) Volumetric fee based on the delivery of energy within Grantor's corporate City limits, or 3) Flat fee collected from customers on a nondiscriminatory basis who are located within the City; provided however, that no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. Grantor may request that Grantee propose ordinance language that will apply the permitted franchise fee.

110.05 CONSTRUCTION AND MAINTENANCE OF COMPANY FACILITIES. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of this grant, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall

take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.06 EXTENSION OF COMPANY FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

110.07 RELOCATION OF COMPANY FACILITIES. If Grantor 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 Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the Grantor, at the cost and expense of Grantee. If Grantor 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 not merely for the convenience of the Grantor 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. Grantor shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. 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 Grantor and the Grantee and a pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

110.08 EMINENT DOMAIN. Unless otherwise permitted to act independently under State law, Grantee is authorized and empowered to appropriate and condemn under the laws of the State so much private property as shall be necessary for the purpose of providing gas utility service to the extent necessary to serve a public use and in a reasonable relationship to an overall plan of providing gas utilities in the

public interest upon the approval of the Grantor's City Council. The Grantee must establish the necessity for each taking of public property, and when so established, City Council may approve the condemnation of private property by resolution.

110.09 CONFIDENTIAL INFORMATION. Grantor acknowledges that certain information it might request pursuant to this franchise may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

110.10 FORCE MAJEURE. It shall not be a breach or default under this franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

110.11 HOLD HARMLESS. Grantee, during the term of this franchise, agrees to save harmless Grantor from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, that Grantee need not save harmless Grantor from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

CHAPTER 110A

NATURAL GAS FRANCHISE

110A.01 Franchise Granted
110A.02 Fees and Taxes
110A.03 Payments
110A.04 Franchise Fee
110A.05 City Map
110A.06 Annexation Ordinances
110A.07 Access to Files and Information

110A.01 FRANCHISE GRANTED. The City of Calmar, Iowa, (hereinafter referred to as the "City") hereby establishes a franchise fee on Black Hills Energy, the City's natural gas franchise provider, (hereinafter referred to as Energy Provider). The Energy Provider shall collect from their customers located within the corporate limits of the City as depicted on the Map (as defined below) including the City of Calmar and pay to the City an amount equal to three percent (3%) of gross receipts the Energy Provider derive from the sale, distribution or transportation of natural gas delivered within the present limits of the City. 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.

110A.02 FEES AND TAXES. The amount paid by the Energy Provider shall be in lieu of, and the Energy Provider shall be exempt from, all other fees, charges, taxes or assessments which the City may impose for the privilege of doing business within the City, including, without limitation, excise taxes, occupation taxes, licensing fees, or right-of-way permit fees, and in the event the City imposes any such fee, charge, tax or assessment, the payment to be made by the 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 City shall not be deemed to affect the Energy Providers' obligations under this chapter.

110A.03 PAYMENTS. The Energy Provider shall report and pay any amount payable under this chapter on a monthly 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 the franchise granted by the City of Calmar, Iowa, to the Energy Provider.

110A.04 FRANCHISE FEE. The Energy Provider shall list the franchise fee collected from customers as a separate item on bills for the utility service issued to their customers. If at any time the Iowa Utilities Board or other authority having proper jurisdiction prohibits such recovery, the 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 the City, the

Energy Provider may reduce the franchise fee payable for natural gas delivered to a specific customer when such reduction is required to attract or retain the business of that customer.

110A.05 CITY MAP. Within ten (10) days of the date of Ordinance No. 377, the City shall provide the Energy Provider with a map of its corporate limits (the "Map"). The Map shall be of sufficient detail to assist the Energy Provider in determining whether their customers reside within the City's corporate limits. The Map along with the Energy Provider's Geographic Information System ("GIS") mapping information shall serve as the sole basis for determining the Energy Provider's obligation hereunder to collect and pay the franchise fee from customers; provided, however, that if the City's corporate limits are changed by annexation or otherwise, it shall be the City'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. The 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 City of an updated Map including such annexed area, or (b) such time after such Energy Provider's receipt from the City of an updated Map including such annexed area as is reasonably necessary for the Energy Provider to identify the customers in the annexed area obligated to pay the franchise fee.

110A.06 ANNEXATION ORDINANCES. The City shall provide copies of annexation ordinances to the 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 110A.04 above.

110A.07 ACCESS TO FILES AND INFORMATION. The City shall have access to and the right to examine, during normal business hours, the Energy Provider's books, receipts, files, records and documents as is reasonably necessary to verify the accuracy of payments due hereunder; provided, that the City 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 the Energy Provider shall be paid within thirty (30) days of recalculation of the amount due, and any over-payment by the Energy Provider shall be deducted from the next payment of such franchise fee due by the Energy Provider to the City; provided, that neither party shall have the obligation to correct a mistake that is discovered more than one (1) year after the occurrence thereof.

(Ch. 110A – Ord. 377 – Aug. 15 Supp.)

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Poles and Wires; Indemnification
111.03 Excavations
111.04 Construction and Maintenance
111.05 Meters
111.06 System Requirements
111.07 Nonexclusive
111.08 Continuous Service
111.09 Franchise Fee
111.10 Term of Franchise
111.11 Entire Agreement

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

111.02 POLES AND WIRES; INDEMNIFICATION. 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 the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the 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 EXCAVATIONS. 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, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

111.04 CONSTRUCTION AND MAINTENANCE. 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 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. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

111.05 METERS. The Company, its successors and assigns shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

111.07 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing 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.

111.09 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of 3 percent (3%) effective October 1, 2015 on the gross revenues from the sale of electricity to the Company's electric customers located within the corporate limits of the City. ***(Ord. 376 – Aug. 15 Supp.)***

2. 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.

3. The Company shall commence collecting the 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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 this section. 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.

9. 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.

10. 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.

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

A. The obligation to collect and remit the fee imposed by this chapter 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 chapter, 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 chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified in the franchise ordinance 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.

12. 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 chapter.

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

111.10 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of twenty-five (25) years from the after its acceptance by the Company, as herein provided. †

111.11 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the written approval and acceptance of the Company. Upon written acceptance by the Company, this franchise ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, other than those approved and accepted by the Company with this chapter, that create additional burdens upon the Company or which delay utility operations.

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† EDITOR'S NOTE: Ordinance No. 351 adopting an electric franchise for the City was passed and adopted on August 29, 2011.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted **112.02 Police Power**

112.01 FRANCHISE GRANTED. Qwest, a corporation (the "Company"), its successors and assigns are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of twenty-five (25) years from the effective date of the ordinance codified by this chapter,[†] for the purpose of constructing, maintaining and operating a general telephone system within the City.

112.02 POLICE POWER. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

[†] **EDITOR'S NOTE:** Ordinance No. 233 , adopting a telephone franchise for the City, was passed and adopted on September 13, 1982.

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CHAPTER 113

CABLE TELEVISION FRANCHISE AND REGULATIONS

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113.03 Franchise Required
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113.23 Insurance
113.24 City's Right to Revoke
113.25 Procedures for Revocation
113.26 Subscriber Privacy
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113.28 Franchise Renewal or Amendment

113.01 TITLE. This chapter shall be known and cited as the Cable Communications Franchise.

113.02 DEFINITIONS. For the purposes of this chapter, the following terms, phrases and words shall have the meaning given herein.

1. "Basic cable service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1993).

2. "Cable communications system" or "system" means a system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities located in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying or distributing audio, video and other forms of electronic signals in the City. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 522(7) (1993).

3. "Cable programming service" means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

A. Video programming carried on the basic service tier;

B. Video programming offered on a pay-per-channel or pay-per-program basis; or

C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

(1) Consists of commonly identified video programming and;

(2) Is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) (1993) and 47 C.F.R. 76.901(b) (1993).

4. "Cable communications service" means the provision of television reception, communications and/or entertainment services distributed over a cable communications system. This definition shall not include telecommunications services regulated pursuant to Federal and State law as may be amended from time to time.

5. "Cable service" means:

A. The one-way transmission to subscribers of video programming or other programming service, and

B. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

6. "Converter" means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable communications services which the subscriber is lawfully authorized to receive.

7. "Drop" means the cable that connects the ground block on the subscriber's residence to the nearest feeder cable of the system.

8. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

9. "Grantee" means Triax Midwest Associates, L.P., its agents and employees, lawful successors, transferees or assignees.

10. "Installation" means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

11. “Lockout device” means an optional mechanical or electrical accessory to a subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable communication system.

12. “Pay television” means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

13. “Standard installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

14. “Street” means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.

15. "Subscriber" means any person who lawfully receives cable service. In the case of multiple office buildings or multiple dwelling units, the subscriber means the lessee, tenant or occupant.

113.03 FRANCHISE REQUIRED. It is unlawful for any person to construct, operate or maintain a cable communications system in the City, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise ordinance. It is also unlawful for any person to provide cable service in the City unless such person shall have first obtained and shall currently hold a valid franchise ordinance. All cable communications franchises granted by the City shall contain the same substantive terms and conditions. This franchise is granted pursuant to the terms and conditions contained herein.

113.04 GRANT OF NONEXCLUSIVE AUTHORITY.

1. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communications system as herein defined.

2. This franchise shall be nonexclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this franchise, provided, however, that any additional franchises granted shall contain the same

substantive terms and conditions as this franchise, all circumstances considered.

113.05 FRANCHISE TERM. This franchise shall be in effect for a period of five (5) years from the effective date, unless renewed, revoked or terminated sooner as herein provided.[†] This franchise shall automatically be extended for an additional ten (10) years upon completion of the upgrade required by this chapter. Upon acceptance by Grantee, this franchise shall supersede and replace any previous ordinance or agreement granting a franchise to grantee to own, operate and maintain a cable communications system within the City.

113.06 RULES OF GRANTEE. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this chapter.

113.07 TERRITORIAL AREA INVOLVED. This franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present system boundaries unless there is a minimum of forty-five (45) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

113.08 WRITTEN NOTICE. All notices, reports, or demands required to be given in writing under this chapter shall be deemed to be given when delivered personally to any officer of Grantee or the City Clerk or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Calmar, Calmar City Hall, 201 North Maryville, P.O. Box 268, Calmar, IA 52132-0268, Attn: City Clerk

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[†] **EDITOR'S NOTE:** Ordinance No. 234, adopting a cable television franchise for the City, was passed and adopted on March 18, 1983. Voters approved the franchise at an election held on May 17, 1983. The Grantee accepted the franchise on June 6, 1983. Ordinance No. 234, adopting a cable television franchise for the City, was passed and adopted on May 3, 1999. The Grantee accepted the franchise on June 30, 1999. Effective November 5, 1999, the franchise was transferred from Triax Midwest Associates, L.P. to Mediacom LLC.

If to Grantee: Mediacom LLC, 100 Crystal Run Road, Middletown, New York 10941, (914) 695-2600

With copies to: Larkin, Hoffman, Daly & Lindgren, Ltd., 1500 Norwest Financial Center, 7900 Xerxes Avenue South, Bloomington, MN 55431, Attn: Jane E. Bremer, Esq.

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

113.09 DROPS TO PUBLIC BUILDINGS. Grantee shall provide installation of one (1) cable drop, one (1) cable outlet and monthly basic cable service without charge to the following institutions:

Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable services are paid. Nothing herein shall be construed as requiring Grantee to extend the system to serve additional institutions as may be designated by the City. Grantee shall have one (1) year from the date of Council designation of additional institutions to complete construction of the drop and outlet.

113.10 CONSTRUCTION CODES AND PERMITS.

1. Grantee shall obtain all necessary permits from the City before commencing any construction upgrade or extension of the system, including the opening or disturbance of any street or private or public property within the City.

2. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this chapter and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this chapter and applicable provisions of local, State and Federal law.

113.11 REPAIR OF STREETS AND PROPERTY. Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

113.12 BUILDING MOVERS. The Grantee shall, on request of any person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary

removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

113.13 TREE TRIMMING. The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

113.14 NO WAIVER. Nothing contained in this chapter shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

113.15 UNDERGROUND CABLE.

1. In all areas of the City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

2. In any area of the City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

113.16 SAFETY REQUIREMENTS. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

113.17 SYSTEM DESIGN AND CHANNEL CAPACITY. Grantee shall provide a 450 MHZ system which has the capability to deliver a minimum of sixty (60) channels within thirty-six (36) months of the effective date of the ordinance codified in this chapter.

113.18 TECHNICAL STANDARDS. The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the FCC's rules and regulations and found in Title 47, Section 76.601 to 76.617.

113.19 LOCKOUT DEVICE. Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

113.20 SUBSCRIBER INQUIRIES. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber

complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

113.21 REFUND POLICY. In the event a subscriber establishes or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

113.22 FRANCHISE FEE.

1. Grantee shall pay to the City a franchise fee in an annual amount equal to three percent (3%) of its annual gross revenues.

2. Payments due the City under this provision shall be payable annually. The payment shall be made within ninety (90) days of the end of Grantee's fiscal year together with a brief report showing the basis for the computation.

113.23 INSURANCE.

1. Upon request, Grantee shall file with its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of the City in its capacity as such. The policies of insurance shall be in the sum of not less than one million dollars ($1,000,000) for personal injury or death of any one person, and three million dollars ($3,000,000) for personal injury or death of two or more persons in any one occurrence, one million dollars ($1,000,000) for property damage to any one person and three million dollars ($3,000,000) for property damage resulting from any one act or occurrence.

2. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to the City.

113.24 CITY'S RIGHT TO REVOKE. In addition to all other rights which the City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel the franchise, and all rights and privileges pertaining thereto, if after the hearing, it is determined that:

1. Grantee has violated any material provision of this chapter; or

2. Grantee has practiced fraud or deceit upon the City or a subscriber.

113.25 PROCEDURES FOR REVOCATION.

1. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with this chapter. Together with the notice required herein, the City shall provide Grantee with written findings of fact which are the basis of the revocation.

2. Grantee shall be provided the right to a public hearing affording due process before the Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subsection 1 above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

3. After the public hearing and upon written determination by the Council to revoke the franchise, Grantee may appeal said decision to an appropriate State or Federal court or agency.

4. During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires.

5. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

113.26 SUBSCRIBER PRIVACY. Grantee shall comply with the terms of 47 U.S.C. 551 relating to the protection of subscriber privacy.

113.27 PROHIBITED ACTS.

1. Unauthorized Connections or Modifications. It is unlawful for any firm, person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.

2. Removal or Destruction. It is unlawful for any firm, person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever.

3. Penalty. Any firm, person, group, company, corporation or government body or agency found guilty of violating this section may be fined a penalty that shall not exceed the penalty prescribed under applicable Iowa law and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

113.28 FRANCHISE RENEWAL OR AMENDMENT. Any renewal of this franchise shall be done in accordance with applicable Federal, State and local laws and regulations. Grantee and City may agree, from time to time, to amend this chapter. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in Federal, State or local laws. The City shall act pursuant to local law pertaining to the ordinance amendment process.

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CHAPTER 115

CEMETERY

115.01 Definition
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115.04 Sale of Lots
115.05 Perpetual Care
115.06 Cemetery Lots Without Perpetual Care
115.07 Annual Care
115.08 Rules and Regulations
115.09 Vandalism in Cemetery
115.10 Use of Drives Required
115.11 Cemetery Closed

115.01 DEFINITION. The term "cemetery" means the Calmar City Cemetery, which is a municipal cemetery under the provisions of Sections 566.14 to 566.18 of the Code of Iowa.

115.02 DUTIES OF SUPERINTENDENT. The cemetery superintendent shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council. The duties of the cemetery superintendent are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;

2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

115.03 RECORDS. It is the duty of the Clerk to make and keep a permanent record of all interments made in the cemetery, which record shall at all times be open to public inspection. The record shall, among other things, include:

1. Plat. An accurate plat of the cemetery;

2. Lot Owners. The names of the owners of all lots that have been sold;

3. Lot Descriptions. The correct description of all lots for sale and the price thereof, as shall be fixed by the City Council;

4. Grave Locations. The exact location of each grave upon each cemetery lot.

115.04 SALE OF LOTS. The sale of lots in the cemetery shall be evidenced by a deed signed and executed by the Mayor and the Clerk for and on behalf of the City, and it is the duty of the Clerk to collect the purchase price for any lot

sold before delivering the deed of conveyance for the same. The payment of all

fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as set out in the rules and regulations then in effect as adopted by the Council.

115.05 PERPETUAL CARE. A portion of the sale price as specified by the rules and regulations established by the Council shall be set aside and deposited in the perpetual care endowment fund of the cemetery. The Council, by resolution, shall also receive and expend all moneys and property donated or bequeathed for perpetual care. The assets of the perpetual care fund shall be invested as permitted by State law. The City shall use the income from such investments in caring for the property of the donor or lot owner or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of a cemetery lot.

(Code of Iowa, Sec. 566.14, 566.15 and 566.16)

115.06 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.07 ANNUAL CARE. An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.08 RULES AND REGULATIONS. The rules and regulations for the cemetery shall be adopted, and may be amended from time to time, by resolution of the Council and shall cover the hours of opening and closing, the use of roads within the cemetery, the hours for burials, the decorating of graves, the fees for services rendered in connection with interments or the placing of markers and the cost of lots or payments for perpetual care as deemed necessary.

115.09 VANDALISM IN CEMETERY. Any person who destroys, injures or defaces any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to any cemetery under the jurisdiction of the City shall be liable for any and all damage, in addition to being subject to any other penalty imposed.

115.10 USE OF DRIVES REQUIRED. No person shall drive any car, cycle, or other vehicle, or ride or lead any horse, in any portion of the cemetery except upon the established drives or roadways therein or such other places as may be officially designated by the City. ***(Ord. 360 – Feb. 14 Supp.)***

115.11 CEMETERY CLOSED. No person shall enter or remain within the cemetery between the hours of ten o'clock (10:00) p.m. and six o'clock (6:00) a.m. ***(Ord. 386 – Feb. 16 Supp.)***

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

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

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

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

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

(Code of Iowa, Sec. 123.30)

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

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

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

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

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

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

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

(Ord. 319 – Jun. 06 Supp.)

12. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

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

(Ord. 322 – Oct. 06 Supp.)

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CHAPTER 121

CIGARETTE PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

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

3. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

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

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

6. "Self-service display" means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

7. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist

tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

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 Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

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

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

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

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

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

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

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products 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. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the retailer's permit shall be suspended for a period of thirty (30) days.

3. For a third violation within a period of three (3) years, the retailer's permit shall be suspended for a period of sixty (60) days.

4. For a fourth violation within a period of three (3) years, the retailer's permit shall be revoked.

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

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36 (6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall

report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 Permission Required
122.04 Procedure
122.05 Transient Merchant Bond
122.06 Permission Granted
122.07 Permission Not Transferable
122.08 Time Restriction
122.09 Revocation
122.10 Effect of Revocation
122.11 Exemptions
122.12 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by approving 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 PERMISSION REQUIRED. Any person wishing to engage in peddling, soliciting or in the business of a transient merchant in the City shall first obtain permission from the City as provided in this chapter.

122.04 PROCEDURE. Permission to conduct business in the City should be requested from the Clerk by informing the Clerk of the applicant's name,

permanent and local address and business address, if any, 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 such business will be conducted in the City. An application fee of ten dollars ($10.00) shall be paid at the time of making the request to cover the cost of investigating the information given.

122.05 TRANSIENT MERCHANT BOND. Before permission under this chapter is given to a transient merchant, an applicant shall provide to the Clerk evidence that such person has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.06 PERMISSION GRANTED. If the Clerk finds the requested information to be complete, the facts stated to be correct and the application fee paid, permission to conduct business shall be granted immediately.

122.07 PERMISSION NOT TRANSFERABLE Permission granted under the provisions of this chapter is not transferable in any situation and is to be applicable only to the person requesting the Clerk's approval.

122.08 TIME RESTRICTION. All peddlers and solicitors shall conduct business in the City for which approval has been given only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.09 REVOCATION. After notice to the peddler, solicitor or transient merchant, the Clerk may revoke permission to do business under this chapter for the following reasons:

1. Fraudulent Statements. The said peddler, solicitor or transient merchant has made fraudulent statements in the request for permission or in the conduct of the business.

2. Violation of Law. Said peddler, solicitor or transient merchant has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The peddler, solicitor or transient merchant has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.10 EFFECT OF REVOCATION. Revocation of any approval shall bar the said peddler, solicitor or transient merchant from being eligible to do business under this chapter for a period of one year from the date of the revocation.

122.11 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 South Winneshiek 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.

122.12 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa, or political candidates for State, local or Federal office desiring to solicit money or to distribute literature are exempt from the requirements of Sections 122.03 and 122.04. All such organizations or individuals are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, and the period during which such activities are to be carried on.

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CHAPTER 123

HOUSE MOVERS

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

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

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

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

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

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

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

123.06 PERMIT FEE. A permit fee of five dollars ($5.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

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

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

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

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

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

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

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CHAPTER 124

ADULT ENTERTAINMENT

124.01 Definitions **124.02 Regulations**

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

1. "Adult amusement or entertainment" means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

2. "Adult book store or gift shop" is an establishment having as a substantial and significant portion of its stock in trade books, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

3. "Adult hotel or motel" means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.

4. "Adult photo studio" is an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities, as defined herein.

5. "Adult theater" is a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on acts or material depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the patrons therein.

6. "Adult uses" includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater and massage parlor.

7. "Massage parlor" is any building, room, place or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined herein, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse or practical nurse operating under a physician's direction, physical therapist, podiatrist, registered speech pathologist and physical or occupational therapist who treats only patients recommended by a licensed physician and operates only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and includes Turkish bath houses. The term does not include a regular licensed hospital, medical clinic or nursing home, duly licensed beauty parlors or barber shops.

8. "Specified anatomical areas" means less than completely and opaquely covered human genitalia, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state — even if completely and opaquely covered.

9. "Specified sexual activities" means patently offensive acts, exhibitions, representations, depictions or descriptions of:

A. Human genitals in a state of sexual stimulation or arousal;

B. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast;

C. Intrusion, however slight, actual or simulated, by an object, of any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body;

D. Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function, actual or simulated;

E. Flagellation, mutilation or torture, actual or simulated, in a sexual context.

124.02 REGULATIONS.

1. Location. An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial school, regularly scheduled school bus stop,

licensed day care facility, church, public park, or any dwelling (one-family, two-family or multiple dwelling) or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, dwelling or City Hall, by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.

2. Concealment. All building openings, entries, windows, etc., of an adult use shall be covered or screened in such a manner as to prevent a view into the interior from any public or semi-public area. Advertisements, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks, walkways or from other public or semi-public areas.

3. Minors. No minor shall be permitted in any establishment in which adult uses are permitted.

4. Alcohol. No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the Code of Iowa. This prohibition applies equally to the proprietor and the patrons of the establishment involved.

(Ch. 124 – Ord. 330 - Nov. 07 Supp.)

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CHAPTER 125

FIREWORKS PERMIT APPLICATION, ISSUANCE, AND PROCEDURES

125.01 Definitions
125.02 Permit Required
125.03 Application
125.04 Age and Qualifications of the Applicant and Operator
125.05 Fireworks Displays, Search for and Disposal of Unexploded Fireworks
125.06 Permit Suspension
125.07 Penalty

125.01 DEFINITIONS.

1. As used in this chapter, the term "fireworks" includes any explosive composition, combination of explosive substances, or device for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of Section 727.2, Iowa Code. The term fireworks does not include goldstar-producing sparklers on wires which contain no magnesium, chlorate or perchlorate; flitter sparklers in paper tubes that do not exceed one-eighth inch in diameter; toy snakes which contain no mercury; or caps used in cap pistols.

2. As used in this chapter, the term "display fireworks" means fireworks devices intended for use in fireworks displays and classified as explosives 1.3 as described as fireworks, UN #0333, #0334 and #0335 by the U.S. Department of Transportation at 49 CFR172.101.

3. As used in this chapter, the term "operator" means a person trained in fireworks safety who will set up and explode the fireworks.

4. As used in this chapter, the term "applicant" means the municipality, organization, or group of individuals requesting a fireworks permit.

5. As used in this chapter, the term "fireworks display" means the explosion of fireworks regulated herein. The test-firing of fireworks by a person certified by the ATF to build fireworks shall not be considered a fireworks display so long as said person's name and address are on file with the City Council.

125.02 PERMIT REQUIRED. It is unlawful to conduct a fireworks display in the City of Calmar, Iowa, unless a permit for such display is first obtained from the City Council for the City.

125.03 APPLICATION. An application for a permit under this chapter shall be made in writing on a form prescribed by the City Council no later than 20 days before the anticipated fireworks display. The City Council may, in its discretion, accept applications filed beyond the deadline set out herein. The application shall include such information as deemed by the City Council to be necessary for its consideration, including but not limited to the name, address and telephone number of the applicant; the name, address and telephone number of the operator; an explanation of the operator's proficiency or training in the use of fireworks; a drawing of the shoot site and drop zone, including their distance from spectators and any buildings; and the proposed approximate time of the display. Additionally, the application shall be accompanied by:

1. A copy of any necessary ATF permits or certifications;

2. For a "display fireworks" display an original certificate of insurance (for occurrence form general liability coverage) shall be submitted to the City Council of Calmar a minimum of twenty days prior to the date of the event for approval by the City Council. The following are the City's insurance requirements for issuance of a permit for "display fireworks". Any exceptions to these requirements must be specifically granted by the City Council and made known to the City Attorney.

A. An original certificate of insurance shall be provided to the Calmar City Clerk prior to the effective date of the permit.

B. The name, address and phone number of the agent signing the certificate shall be typed under the agent's signature.

C. "City of Calmar and its officers, agents and employees are named as additional insured" shall be specifically indicated on the certificate.

D. The name and date of the event being covered shall be indicated on the certificate.

E. The minimum liability limit required by City is 2 million dollars ($2,000.000.00).

F. All addresses on the certificate shall list a street address; P.O. Box addresses are not accepted.

125.04 AGE AND QUALIFICATIONS OF THE APPLICANT AND OPERATOR. Permits may be granted to municipalities, organizations or groups of individuals. Any applicant requesting a permit for a display of "display fireworks" shall have an operator who possesses a current and valid

ATF permit as set forth by the Safe Explosives Act and is certified by a nationally recognized fireworks safety organization such as the American Fireworks Association or the Pyrotechnics Guild International, Inc. Any applicant requesting a permit for a display of "consumer fireworks" shall have a competent operator who is at least 21 years of age on the date of the display.

125.05 FIREWORKS DISPLAYS, SEARCH FOR AND DISPOSAL OF UNEXPLODED FIREWORKS. The discharge of fireworks under a permit granted pursuant to this chapter will not be allowed before sunrise or after midnight of the date of the display unless otherwise permitted by the City Council at the time the permit application is approved. Any fireworks that remain unexploded after the display shall be immediately disposed of or removed for storage or disposal in a safe manner by the operator; who as soon as practicable after the conclusion of the display, shall make a complete and thorough search for any fireworks or fuses, or parts thereof, which have not exploded or functioned.

125.06 PERMIT SUSPENSION. The Calmar Police Department and its designees may suspend any permit issued pursuant to this chapter should it determine that the health, safety, welfare of the public would require the suspension, or should the applicant and or operator fail to meet the qualifications as set out in this chapter. In the event of any such suspension, the Police Chief shall file a report thereof with the City Council. Thereupon, the City Council shall, at its next formal meeting, affirm the suspension of permit or reinstate the same. In the event a burn ban is issued for Winneshiek County by the State Fire Marshall or other appropriate authority, all permits granted shall be automatically suspended until such time as the burn ban is lifted.

125.07 PENALTY. Violation of the provision of this chapter shall constitute a simple misdemeanor and the penalty for such violations shall be as provided by the Iowa Code for simple misdemeanors.

(Ch. 125 – Ord. 378 – Aug. 15 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Property Owner's Responsibility for Maintenance
135.11 Failure to Maintain Parking or Terrace
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 glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

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

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

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

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods,

wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit 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. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

10. Permit Issued. Upon approval of the application and filing of insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

11. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon the public streets and shall keep such area in a safe condition, free from nuisances, obstructions and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner shall be liable for damages caused by failure to maintain the publicly owned property or right-of-way. ***(Ord. 368 – Oct. 14 Supp.)***

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

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

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

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

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

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

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CHAPTER 136

SIDEWALK REGULATIONS

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

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

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (¾) inch or more.

B. Horizontal separations equal to one (1) inch or more.

C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

G. A sidewalk with any part thereof missing to the full depth.

H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

6. "Portland cement" means any type of cement except bituminous cement.

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

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

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

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, not to exceed twenty-four (24) hours following the cessation of snowfall or the forming of ice, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. ***(Ord. 302 – Mar. 04 Supp.)***

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall 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 in the absence of a curb, any sidewalk between the property line and that traveled portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

(Ord. 369 – Oct. 14 Supp.)

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 or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.

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 (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Ord. 344 – Oct. 10 Supp.)

(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.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

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

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

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

(Code of Iowa, Sec. 392.1)

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

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

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

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

(Code of Iowa, Sec. 364.7)

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

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

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
27	March 15, 1974	223	April 13, 1981
55	October 27, 1980	236	September 10, 1984
57	April 11, 1921	239	August 5, 1985
59	April 11, 1921	263	--
61	April 1, 1921	264	June 3, 1996
62	April 1, 1921	271	July 6, 1998
64	October 11, 1982	297	July 7, 2003
81	April 10, 1996	323	January 2, 2007
103	June 5, 1932	324	January 2, 2007
108	November 20, 1935	335	May 5, 2008
114	February 20, 1920	353	November 7, 2011
118	April 2, 1945	356	December 3, 2012
129	September 7, 1954	387	May 2, 2016
130	December 5, 1955		
132	December 5, 1955		
146	November 4, 1963		
147	June, 1964		
148	April 7, 1965		
151	April 4, 1967		
152	June 21, 1967		
158	November 4, 1968		
163	July 22, 1971		
193	December 3, 1973		
203	April 5, 1976		
208	September 12, 1977		
209	November 7, 1977		

CHAPTER 138

STREET GRADES

138.01 Established Grades **138.02 Record Maintained**

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

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

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
96	September 7, 1928		
277	October 4, 1999		
333	December 3, 2007		

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

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

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

(Code of Iowa, Sec. 354.26)

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

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

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

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definitions
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

140.01 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 DEFINITIONS. 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. The "points of access" consist of access ways from abutting property to the adjacent traffic lane or roadway and their location is expressed in terms of "stations," measured along the centerline of the controlled access facility from the points of reference stated herein. Such measurements refer to the center of the access ways which are the widths hereinafter stated.

(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 points as may be permitted by the Iowa Department of Transportation and designated by ordinance. Presently existing access rights will continue except when terminated by gift, purchase, or appropriate condemnation proceedings thereof. However, such access rights shall be subject to such regulations in the interest of public welfare and safety as the City and the State Highway Commission may agree upon, provided that no additional access ways shall be permitted by the City without the consent and approval of the State Highway Commission.

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-98(8). On the Primary Road System extension improvement, Project No. F-98(8), Primary Road No. U.S. 52, within the City, described as follows:

> Beginning at station 872+00, thence northerly 2515.5 feet to the north corporation line at station 897+15.5,

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-98(8), on file in the office of the Clerk.

2. Project No. DF-1011(2). On the Primary Road System extension improvement, Project No. DF-1011(2), Primary Road No. 150, within the City, described as follows:

> Commencing at the south corporation line (station 841+13.9) thence north and northwesterly to station 853+97.8, which equals station 1853+97.8, thence north and northwesterly to the south side of the intersection of South Street and Maryville Street (station 1864+89.6)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. DF-1011(2), on file in the office of the 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.

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

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

1. Project No. F-98(8). The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. F-98(8) is hereby recorded as follows:

STATION	SIDE OF STREET	CURB OPENING WIDTH	USE OF DRIVE OR ENTRANCE
873+30	west	35 feet	joint commercial and residential
874+12	west	24 feet	residential

2. Project No. Project No. DF-1011(2). The compiled list furnished by the Iowa Highway Commission of drives and entrances provided for access under the improvement specified as Project No. DF-1011(2) is hereby recorded as follows:

STATION	SIDE OF STREET	CURB OPENING WIDTH	USE OF DRIVE OR ENTRANCE
842+00	east	18 feet	cemetery
844+50	west	18 feet	farm entrance
846+98	east	18 feet	cemetery
848+14	west	18 feet	residential
848+37	west	18 feet	residential
849+59	west	18 feet	farm entrance
850+97	east	24 feet	residential
1854+91	west	24 feet	residential
1857+69	east	18 feet*	residential
1857+04.5	west	24 feet*	residential
1980+11.5	west	18 feet*	residential
1980+64.5	east	18 feet*	residential
1980+60	west	18 feet*	residential
1981+03.5	west	18 feet*	residential
*drive or entrance width for non-curb areas			

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

1. Approaches. Parking is prohibited for a distance of thirty-five (35) feet back of sidewalk lines of intersecting street approaches to primary highways.

2. U.S. Highway 52. Parking is prohibited from station 872+00 to station 897+15.5 (north corporation line), both sides.

3. State Highway 150. Parking is prohibited from south corporation line to South Street, both sides.

4. U.S. Highway 52. Parking is prohibited on the south side of East Main Street (U.S. Highway 52) between Jefferson Street and Iowa Street.

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CHAPTER 145

DANGEROUS BUILDINGS

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

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

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

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

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

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

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

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

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

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

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

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

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

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor

or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

TREES

151.01 Purpose
151.02 Definitions
151.03 Prohibited Trees
151.04 Duty to Trim
151.05 Removal of Trees
151.06 Tree, Shrub, and Brush Removal on Public Property
151.07 Tree, Shrub, and Brush Removal on Private Property
151.08 Permit and Regulation
151.09 Authority of the Council

151.01 PURPOSE. The purpose of this chapter is to regulate and preserve the appearance of the City by requiring trees, shrubs, and bushes to be uniformly located, and to regulate the planting and care of such trees, shrubs, and bushes in the City for the protection of public health, safety, and welfare.

151.02 DEFINITIONS. For the purposes of this chapter, the following definitions apply:

1. "Owner" means a person owning private property in the City as shown by County records. This term includes the term "agent," "occupant," "tenant," and "person in control" of the property.

2. "Parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and the portion of the street, avenue, or highway usually traveled by vehicular traffic.

3. "Private property" means all property not owned by the City.

4. "Public property" means any and all property located within the confines of the City and owned by the City or held in the name of the City by any departments, commissions, or agencies within the City government.

5. "Public right-of-way" means all of the land lying between the property lines on either side of all public streets, avenues, highways, and alleys, including public easements and grants to the City.

6. "Street" means the entire width between property lines, including the parking and the public right-of-way, and that portion of the roadway usually traveled by vehicular traffic.

151.03 PROHIBITED TREES. The following species or trees are declared to be nuisances, and no person shall plant any of the following trees within the City:

Box Elder	Tree of Heaven	Cotton Bearing Popular	Female Gingko
Silver Maple/White River		Siberian Elm	Maple (soft maples)

151.04 DUTY TO TRIM.

1. All property owners, agents, or occupants of property adjoining the streets in the City shall prune, maintain, and care for all trees, shrubs, and bushes located upon the public right-of-way or parking. All trees, shrubs, and bushes which overhang onto the street, alley, or other roadways of the City must be trimmed to a height of 15 feet immediately above such streets, alleys, or roadways.

2. All trees, shrubs, and bushes which over hang onto the sidewalk of the City must be trimmed to a height of 8 feet immediately above such sidewalk.

3. All trees, shrubs, and bushes located upon public right-of-way or parking shall be trimmed so there are no branches within 2 feet of the sidewalk or curb line, unless they are higher than the height restrictions in subsections 1 and 2 of this section.

151.05 REMOVAL OF TREES. The City may remove any tree standing on public property, or in the public right-of-way or parking thereof, which is dead, diseased, or declared to be a nuisance to public safety. No compensation shall be paid to the abutting property owner regardless of whether the City or the property owner placed the tree in the public right-of-way or parking. Any person desiring to remove a live tree which has been planted in the public right-of-way or parking shall first obtain permission from the City. If permission is granted, the person requesting permission must remove the tree at their own expense.

151.06 TREE, SHRUB, AND BRUSH REMOVAL ON PUBLIC PROPERTY. No trees, shrubs, bushes, or other parts thereof which are dead, decayed, diseased, or dying upon a street, public right-of-way, parking, or public property of the City and which constitute a hazard to the health, safety, or well-being of any person shall be allowed to remain in such condition. No trees, shrubs, or bushes shall be maintained in such a manner as to interfere with the moving of traffic upon the streets in a safe and orderly manner.

151.07 TREE, SHRUB, AND BRUSH REMOVAL ON PRIVATE PROPERTY. No trees, shrubs, or bushes or parts thereof on private property which are dead, decayed, diseased, or dying or which have become dangerous to the public shall be allowed to remain in such condition.

151.08 PERMIT AND REGULATION.

1. No tree may be planted within any public utility easement without written permission of the City. No tree shall be planted under existing lines if, at maturity, it is likely to cause interference with those lines.

151.09 AUTHORITY OF THE COUNCIL.

1. The City shall have the authority to order the property owner, agent, or occupant of the property adjoining the street to prune, maintain, and care for all trees, shrubs, and bushes located on the street, public right-of-way, or parking which have become dangerous to the public or which may interfere with the regular movement of traffic upon the streets in a safe manner, by serving notice upon the property owner to comply with the order. This order is in addition to the requirements that all trees, shrubs, and bushes to be trimmed as above described.

2. Should the adjoining property owner, agent, or occupant fail to comply with said order within 30 days after receiving notice from the City, then the City may order the pruning or maintenance of such trees, shrubs, and bushes, and the City Council may assess the costs thereof against the adjoining property by resolution of the Council.

(Ch. 151 – Ord. 374 – May 15 Supp.)

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CHAPTER 152

OUTDOOR FURNACES

152.01 Title
152.02 Purpose
152.03 Definitions
152.04 Permit Required
152.05 Existing Outdoor Furnaces
152.06 Specific Requirements
152.07 Permit Application and Issuance
152.08 Enforcement and Violations

152.01 TITLE. This chapter shall be known and may be cited and referred to as the "Outdoor Furnace Ordinance" of the City of Calmar, Iowa.

152.02 PURPOSE. The Council finds that odors and emissions resulting from the use of outdoor furnaces can be detrimental to public health and deprive neighboring residents of the enjoyment of their property. The purpose of this chapter is to establish and impose restrictions on the installation, construction and operation of outdoor furnaces within the City in order to secure and promote public health, comfort, convenience, safety and welfare.

152.03 DEFINITIONS. For purposes of this chapter, unless the context otherwise requires, the following definitions shall apply:

1. "Outdoor furnace" means any equipment, device or apparatus which is installed, affixed or situated outdoors or within another structure for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat or hot water to any other structure.

2. "Stack" or "Chimney" means any vertical structure enclosing a flue or flues that carry off smoke, exhaust and other emissions from an outdoor furnace.

152.04 PERMIT REQUIRED. Except as provided in Section 152.05, no person shall cause, allow or maintain the use of an outdoor furnace or install, construct or relocate an outdoor furnace within the City without first having obtained an outdoor furnace permit from the City Clerk, or cause, allow or maintain the use of an outdoor furnace after the expiration or revocation of any permit issued for such outdoor furnace. A permit shall be valid only for a specific outdoor furnace at a specific location and shall automatically expire if use of the outdoor furnace ceases for a continuous period of two years or more. A permit is transferable to subsequent owners of the lot on which the outdoor furnace is located.

152.05 EXISTING OUTDOOR FURNACES. Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, subject to the following requirements:

1. Permit Requirement. The owner of any outdoor furnace in existence on the effective date of this chapter shall apply for and receive an outdoor furnace permit from the City Clerk within six months of such effective date. If a permit is not received for an existing outdoor furnace within six months from the effective date of this chapter the outdoor furnace shall be removed.

2. Temporary Exemption. Outdoor furnaces in existence on the effective date of this chapter shall be exempt from the provisions of this chapter for a maximum period of six months from the effective date. After six months all provisions shall be applicable except as provided in subsection 3, below. In order to obtain a permit for an existing outdoor furnace, the furnace must be in compliance with all the provisions of this chapter and all provisions shall continue to apply to an outdoor furnace after a permit has been issued for it, except as provided in subsection 3, below.

3. Setback Exemption. The provisions of subsection 2 of Section 152.06 of this chapter shall not apply to any outdoor furnace in existence on the effective date of this chapter; provided, however, that no existing furnace shall thereafter be moved to or replaced by a new furnace at any location which is not in compliance with the setback requirement.

4. Definition. "Existing" or "in existence" means the outdoor furnace is in place on a lot.

152.06 SPECIFIC REQUIREMENTS. Except as provided by Section 152.05, all outdoor furnaces shall comply with the following rules and regulations:

1. Manufacturer's Instructions. All outdoor furnaces shall be installed, operated and maintained in accordance with the manufacturer's instructions. All new outdoor furnaces shall be laboratory tested and listed to appropriate safety standards such as UL, ANSI or other applicable safety standards.

2. Setbacks. Outdoor furnaces shall not be located less than thirty (30) feet from the nearest lot line.

3. Permitted Fuel. Only firewood, untreated lumber, fossil fuels, corn and biomass products (excluding leaves and other yard waste) are permitted to be burned in any outdoor furnace. Burning of any and all

other materials is prohibited. No outdoor furnace shall be utilized as a waste incinerator.

4. Starting. Petroleum products and chemicals shall not be used to start an outdoor furnace.

5. Stack Requirements. Every outdoor furnace shall be equipped with a stack or chimney through which passes all smoke and other emissions produced by the furnace. All stacks must be so constructed as to withstand high winds and other weather elements. Stack height shall be in accordance with the following:

A. If located 100 feet or less from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least two feet above the eave line of that structure.

B. If located more than 100 feet but not more than 250 feet from any residence or other occupied structure not served by the outdoor furnace, the stack must extend to at least 75% of the height of the eave line of that structure.

C. In no event shall a stack extend less than 16 feet above the ground.

6. Compliance with Other Regulations. All outdoor furnaces shall also comply with any other applicable county, state or federal regulations.

152.07 PERMIT APPLICATION AND ISSUANCE.

1. Applications. An application for an outdoor furnace permit shall be made to the City Clerk on a form provided by the City and shall contain and have attached thereto the following information:

A. Name, address and telephone number of the applicant.

B. Address of the lot upon which the outdoor furnace is to be installed or constructed.

C. A site plan indicating the proposed location of the outdoor furnace in relation to all lot lines and structure located within 250 feet.

D. The name of the manufacturer and model number for the outdoor furnace, together with a copy of the manufacturer's installation, operation and maintenance instructions.

E. A description of the stack or chimney proposed to be used in connection with the outdoor furnace, including its height and a description of any guy wires or other devices to be used to support or stabilize the stack.

F. Such other information as the City Clerk shall require to show full compliance with this chapter and all other ordinances of the City.

2. Permit Fee. The applicant shall file with the outdoor furnace permit application an administration and inspection fee in the amount of $35.00 which shall be deposited in the City's general fund.

3. Applicant. The applicant for an outdoor furnace permit shall in all cases be the owner of the lot on which the outdoor furnace is to be located.

4. Time; Rejections. The City Clerk shall issue an outdoor furnace permit or deny an outdoor furnace application within 10 days after receipt of an application, provided that the required information is contained in the application and the other conditions set forth in this section have been satisfied by the applicant. The City Clerk shall deny any application which is not filed in conformity with this section or which proposes an outdoor furnace which would be contrary to the provisions of this chapter. Any denial of an application shall be given in writing with the reasons for such denial stated thereon. If an application is denied, the permit fee shall be refunded to the applicant.

5. Issuance. An outdoor furnace permit shall be issued by the City Clerk when the application and the investigation thereof indicate compliance by the applicant with all of the provisions of this chapter and all other applicable laws. The permit shall specify the minimum stack or chimney height that must be used in connection with the outdoor furnace.

6. Records. A careful record of all permit applications and permits shall be maintained by the City Clerk.

152.08 ENFORCEMENT AND VIOLATIONS.

1. It is the duty of the City Clerk, with the aid of the Police Department and the City Attorney, to enforce the provisions of this chapter. The City Clerk shall promptly report all violations to the City Attorney and the Mayor.

2. Any person who violates, disobeys, neglects or fails to comply with, or who resists the enforcement of, any of the provisions of this chapter or any of the terms and conditions of any permit, regulation, or

lawful order of the Zoning Administrator made under the authority of this chapter shall be guilty of a simple misdemeanor and a municipal infraction. Each day that a violation exists or continues shall constitute a separate offense.

3. If any outdoor furnace regulated under this chapter is installed, constructed, moved, maintained or used in violation of this chapter or in violation of the terms and conditions of any permit or regulations issued or made under the authority of this chapter, the City Attorney, at the direction of the Council, shall, in addition to other remedies, institute any appropriate action or proceedings in any court to prevent such unlawful installation, construction, movement, maintenance or use, to restrain, correct or abate such violation, or to prevent any illegal act, conduct, business, or use relating to such outdoor furnace.

(Ch. 152 – Ord. 326 – Oct. 07 Supp.)

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CHAPTER 155

BUILDING PERMIT

155.01 PERMIT REQUIRED. No building or other structure shall be erected or altered within the City without first receiving a permit therefor. A permit fee shall be paid to the City prior to the issuance of the permit. The Council, from time to time, shall establish the amount of the permit fee by City Resolution as it deems necessary. The permit shall be valid for one (1) year from date of issuance. ***(Ord. 289 – Jul. 02 Supp.)***

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CHAPTER 156

PROPERTY MAINTENANCE

156.01 Enforcement Officer
156.02 Property Maintenance
156.03 Inspection
156.04 Violations

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

156.02 PROPERTY MAINTENANCE. All real estate within the City shall be kept free of debris and other accumulations and maintained in accord with the following requirements:

1. Property Maintenance. Real property maintained in such condition so as not to become so defective, unsightly, or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of the surrounding properties or is materially detrimental to properties and improvements.

2. Unacceptable Materials. Any discarded or unused material on real property that is not consistent with the condition and visual appearance of surrounding adjacent real properties. Types of unacceptable materials include those items enumerated elsewhere in the Municipal Code and also dirt and gravel piles, rock piles, incomplete landscaping projects, eroded soil areas, pits, holes and excavations.

3. Excavations. Creating, maintaining, causing or allowing to exist for a continuous period of more than 30 days any man-made excavation, hole or other depression in the ground in or on any lot or parcel of land in the City of a depth of more than three feet below the surrounding grade, other than as a part of the active construction of a building or other structure on the lot which will ultimately close in and completely cover such excavation, hole or depression. Upon a finding that the owner of the lot or parcel of land has violated the provisions of this subsection, the lot owner shall be required to fill in any such excavation, hole or depression and grade the same to a topographic elevation equal to or level with the surrounding adjacent grade, and seed the site with grass or similar vegetative ground cover, and take reasonable measures to ensure the proper germination of the planted vegetation.

4. Storage. The placement or storage in the front (lawns) of any residence of any lawn care devices (lawn mowers, lawn rollers, garden

tractors, trailers, etc.), off-road vehicles, including snowmobiles, recreational vehicles, boats, motor vehicles or motorcycles is prohibited. The placement or storage in the rear and side yard (lawns) of any residence of not more than three of either lawn care devices (lawn mowers, lawn rollers, garden tractors, trailers, etc.), off-road vehicles, including snowmobiles, recreational vehicles, boats, motor vehicles or motorcycles. In cases of hardship exceptions for rear and side yard storage may be granted by the City Council upon written request. Determinations for said exceptions are to be made on a case-by-case basis by the City Council.

5. Deposits. The depositing of any yard waste, which is not properly composted, refuse, solid waste, vehicle parts, garbage, noxious substances or hazardous wastes, junk, unused building materials, salvage materials or other offensive substances thrown, left or deposited upon a public or private lot, whether vacant or occupied.

6. Accumulations. Failing to keep a building, dwelling, structure or business clean and free of any unsanitary accumulations of dirt, filth, rubbish, garbage, including the yards, courts, passages, areas or alleys connected with or belonging to the same.

156.03 INSPECTION. The Mayor or other local authority may from time to time inspect property and take such action as is necessary to enforce compliance with this chapter.

156.04 VIOLATIONS. It shall be unlawful for any person to neglect or refuse to comply with any provisions of this chapter, and such violation shall constitute a misdemeanor. The City shall have the authority to obtain compliance by the use of injunctive relief, municipal infraction enforcement and all other civil remedies available for enforcement.

(Chapter 156 – Ord. 352 – Dec. 11 Supp.)

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CHAPTER 165

ZONING REGULATIONS

165.01 Title
165.02 Definitions and Rules of Construction
165.03 Districts Established
165.04 Classification of Newly Annexed Territory
165.05 Map Adopted
165.06 Changes in Official Zoning Map
165.07 Replacement of Map
165.08 Rules For Interpretation of District Boundaries
165.09 Application of District Regulations
165.10 Nonconforming at Adoption
165.11 Nonconforming Uses of Land
165.12 Nonconforming Uses of Structures
165.13 Nonconforming Structures
165.14 Maintenance and Repair to Nonconforming Structures
165.14A Home Occupation
165.15 "A-1" District (Agricultural)
165.16 "R-1" District (Single-Family Dwelling)
165.17 "R-2" District (Two-Family Dwelling)
165.18 "R-3" District (Multiple-Family Dwelling)
165.19 "R-4" District (Mobile Home Parks)
165.20 "C-1" District (General Commercial)
165.21 "C-2" District (Highway Commercial)
165.22 "I-1" District (Industrial)
165.23 "I-2" District (Heavy Industrial)
165.24 Front Yards For Through Lots
165.25 Porches and Decks
165.26 Rear Yards Abutting on Alleys
165.27 Stairways, Fire Escapes, Chimneys, Etc. Projecting Into Rear Yards
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165.29 Fences and Walls
165.30 Width and Yard Requirements for Lots Previously of Record
165.31 Area Requirements For Lots of Record
165.32 Off-Street Parking and Loading
165.33 Special Use Permits
165.34 Duration of Permit
165.35 Clerk To Enforce Chapter
165.36 Zoning Compliance Certificate
165.37 Board of Adjustment
165.38 Fee For Appeals
165.39 Disposition of Appeals
165.40 Board of Adjustment Powers and Duties
165.41 Decisions of the Board of Adjustment
165.42 Appeals From the Board of Adjustment
165.43 Interpretation and Purpose
165.44 Amendments Authorized
165.45 Petition For Amendment
165.46 Fee For Petitions
165.47 Vote Required When Amendment Protested
165.48 Renewal of Petition After Denial
165.49 Violations; Penalties
165.50 Extraterritorial Zoning

165.01 TITLE. This chapter shall be known and may be cited and referred to as the "Zoning Ordinance" to the same effect as if the full title were stated.

165.02 DEFINITIONS AND RULES OF CONSTRUCTION. For the purpose of interpreting this chapter, certain words, terms and expressions are herein defined. Words used in the present tense include the future; the singular number includes the plural; the plural includes the singular; the word "shall" is always mandatory.

1. "Accessory building" means a subordinate building, the use of which is incidental to that of the principal building or to the principal use of the premises. An accessory use is one which is incidental to the main use of the premises.

2. "Agriculture" means the use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of

normal agricultural activities. "Agriculture" does not include commercial feedlots as defined herein.

3. "Alley" means, for the purpose of this chapter, a public thoroughfare, not more than thirty (30) feet in width for the use of vehicles, which affords only a secondary means of access to abutting property.

4. "Alteration, structural" means any change in the load-bearing members of a building, such as bearing walls, partitions, columns, beams, or girders. The enlargement of the size or height of a building shall be construed to be a structural alteration.

5. "Apartment" means a room or suite of rooms, with toilet and culinary accommodations, used or designed for use as a residence by a family, located in a building containing two (2) or more such rooms or suites or located in a building devoted primarily to nonresidential use.

6. "Attic" means a space under a gable, hip, gambrel or other roof, the finished floor of which is, or would be, at or entirely above the level of the wall plates of at least two (2) exterior walls, and the height of which from the floor level to the highest point of the roof does not exceed ten (10) feet.

7. "Basement" means a story partly underground but having at least one-half (½) of the height of one or more walls above the highest level of the adjoining ground. A basement shall be counted as a story under the provisions of this chapter.

8. "Billboard" means any flat surface, twenty (20) square feet or more in area, erected on a framework or attached to posts, buildings or other structures, and used for the display of bills, posters or other advertising matter pasted, tacked or fastened thereto.

9. "Block frontage" means the frontage of lots facing the street under consideration which are comprised between two (2) adjacent streets or between a street and a railway right-of-way, a natural barrier or the adjacent corporation line.

10. "Board" means the Board of Adjustment.

11. "Boardinghouse" means a building, other than a hotel, where meals are regularly served for compensation to more than three (3) persons not members of the family there residing.

12. "Building" means a structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels.

When separated by division walls from the ground up without openings, each portion of such structure shall be deemed a separate building.

13. "Building, height of" means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs, the measurement in all cases to be taken through the center of the front of the building. Where a dwelling is situated on ground above the curb level, such height shall be measured from the level of the adjoining ground, at the front building wall, provided the distance from the building to the street line is not less than the height of the adjoining ground above the curb level. Where a dwelling is on a corner lot and there is more than one grade or level, the measurement shall be taken from the main entrance elevation.

14. "Building line" means a building setback line as established under the provisions of Section 368.10 of the Code of Iowa, 1975.

15. "Building wall" means the wall of the principal building forming a part of the main structure. The foundation walls of unenclosed porches or piazzas, steps and retaining walls or similar structures shall not be considered as building walls under the provisions of this chapter.

16. "Business" or "commercial," when used herein, refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices or recreational or amusement enterprises.

17. "Carport" means space for the storage or housing of motor vehicles and enclosed on not more than two (2) sides by walls, and is attached to the principal building.

18. "Cellar" means a story having more than one-half (½) of the height of all walls below the highest level of the adjoining ground. A cellar shall not be considered as a story for the purposes of this chapter.

19. "Clinic, dental or medical" means a building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying on their profession. The clinic may include a dental or medical laboratory. It does not include in-patient care or operating rooms for major surgery.

20. "Club or lodge (private)" means an association of persons for the promotion of some non-profit object, who are bona bide members paying annual dues, which owns, hires or leases a building, or portion thereof, except a fraternity or sorority, the use of such premises being restricted to members and their guests. It is permissible to serve food and meals to members and their guests on such premises provided adequate dining

room space and kitchen facilities are available and are operated in compliance with State and local municipal laws.

21. "Commercial feedlot" means the feeding or raising of livestock, poultry, or other animals in confined feedlots, dry lots, pens, cages, or buildings as a commercial enterprise not in conjunction with a farming operation.

22. "Convalescent home" means a building or premises in or on which care is provided for two (2) or more invalid, infirm, aged, convalescent or physically disabled or injured persons, not including insane or other mental cases, inebriate or contagious cases. Nursing homes are convalescent homes.

23. "Court" means an open, unoccupied space on the same lot and fully enclosed on at least three (3) adjacent sides by walls of the buildings. An outer court is any court facing for its full required width on a street, or on any other required open space not a court.

24. "Curb level" means the mean level of the curb or established curb grade in front of a lot.

25. "District" means a section or sections of the area of the City for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.

26. "Dwelling" means a building or portion thereof designed or used exclusively for residential occupancy, but not including house trailers, mobile homes, hotels, motels, boarding and lodging houses, tourist courts or tourist homes.

27. "Dwelling, detached" means one which is entirely surrounded by open space on the same lot.

28. "Dwelling, multiple-family" means a building designed for and occupied exclusively by more than two families.

29. "Dwelling, single-family" means a building designed for and occupied exclusively by one family.

30. "Dwelling, two-family" means a building designed for and occupied by two families.

31. "Enforcing officer" means the City Clerk of the City of Calmar.

32. "Family" means an individual, or two or more persons related to one another by blood, marriage, or legal adoption, including foster children, and not more than two roomers; or in the alternative, not more than three unrelated persons.

33. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruit and grain, and their storage, as well as for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms, 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 provided further that "farming" does not include the feeding of garbage or offal to swine or other animals.

34. "Garage, private" means an accessory building or portion of a building used only for the shelter and/or storage of vehicles by the occupants of the dwelling, or the leasing of space as provided herein, including covered space or carport.

35. "Garage, public" means a building or portion of a building in which motor vehicles are equipped for operation, repaired, stored or kept for remuneration, hire or sale.

36. "Gasoline service station" means a building or portion of a building used chiefly in connection with tanks, pumps and other appliances for supplying motor vehicles with gasoline, oil, compressed air, water and similar supplies, but not for the purpose of making repairs. When the dispensing, sale or offering for sale of motor vehicle fuel at retail is incidental to the conduct of a public garage, the premises is classified as a public garage.

37. "Gross floor area" means the sum of the gross horizontal area of floors of a building, including interior balconies and mezzanines. All horizontal dimensions are to be between the exterior faces of walls.

38. "Home occupation" means an occupation as defined in Section 165.14A. ***(Ord. 350 – May 11 Supp.)***

39. "Hospital" means an institution providing health services, primarily for in-patients, and medical and surgical care of the sick and injured, including as an integral part of the institution such related facilities as laboratories, central service facilities and staff offices.

40. "Hotel" means a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than fifteen (15) sleeping rooms usually occupied independently.

41. "Junkyard" or "salvage yard" means an open area on any lot or parcel of land which is used for storage, abandonment or keeping of

junk, including scrap metals or scrap materials, or for the abandonment or dismantling of machinery, motor vehicles or other vehicles or parts thereof.

42. "Laboratory, medical or dental" means a laboratory which provides bacteriological, biological, medical, X-ray, or pathological services to doctors, dentists, or which provides custom or prescription appliances directly connected with the treatment and care of human ailments.

43. "Lawful use" means the use of a building or land which existed on December 5, 1977, or for which a zoning permit has been issued thereafter.

44. "Lodging house" means a building or portion thereof, other than a hotel or motel, where lodging only is provided for compensation to three (3) or more persons, including rooming houses.

45. "Lot" means a parcel of land under one ownership on which a principal building and its accessories are or may be placed, together with the required open spaces, having its frontage upon one or more streets or public place.

46. "Lot area" means the area of a horizontal plane, bounded by the front, side and rear lot lines.

47. "Lot, corner" means lots conforming to the requirements of the following specified conditions under the provisions of this chapter:

A. A lot fronting on two (2) intersecting streets which form an interior angle of 135 degrees or less, and which lot has a frontage of not less than 25 feet on each of such streets.

B. A lot located at the angle in a street where the interior angle formed by the intersection of the street lines is 135 degrees or less and which lot has a frontage of not less than 25 feet on each leg of such angle.

48. "Lot depth" means the distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the main depth shall be the lot depth.

49. "Lot, interior" means any lot other than a corner lot.

50. "Lot line, front" means, in the case of an interior lot abutting on only one street, the street line of such street. In the case of any other lot, it may be such street line as is elected by the owner to be the front lot line for the purpose of this chapter.

51. "Lot line, rear" means that boundary line which is opposite and most distant from the front lot line.

52. "Lot line, side" means any boundary line not a front lot line or a rear lot line.

53. "Lot of record" means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Winneshiek County, Iowa, or a parcel of land, the deed of which was recorded in the Office of the County Recorder prior to the adoption of this chapter.

54. "Lot, through" means a lot running through the block from street to street.

55. "Lot width" means the distance between the side lot lines. In the case of a lot of irregular shape, the main width shall be the lot width.

56. "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 shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa.

57. "Mobile home park" means any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge of 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" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution, or company on said person's own premises and used exclusively to house such person's own labor or students.

58. "Motel" means a permanent building or group of buildings so arranged or designed primarily for temporary occupancy, so laid out as to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include living quarters for the use of operating personnel.

59. "Nonconforming use" means the lawful use of a building or land on the effective date of this chapter or amendment thereto, which use does not conform to the provisions of this chapter for the district in which it is located.

60. "Nonconforming building or structure" means a building or structure which met all yard, area and building height regulations existing at the time of construction, reconstruction or extension but, because of changes in this chapter, does not meet all current regulations.

61. "Office" means a place where business or services for others is transacted and not a place where chattels or goods, wares or merchandise are commonly created, exchanged or sold.

62. "Parking lot" means an area of land, a yard or other open space on a lot used for or designed for use by standing motor vehicles, together with a driveway connecting the parking lot with a public place.

63. "Parking space" means a surfaced area, enclosed or unenclosed, on a lot sufficient in size to store one standard automobile, together with a driveway connecting the parking space with a public place, street or alley.

64. "Porch, open" means a roofed structure, open on two or more sides, projecting not more than eight feet within the front yard, not more than three feet within a side yard, and not more than eight feet within a rear yard. An open porch may be enclosed by removable storm windows for periods not exceeding seven months in a twelve-month period.

65. "Pre-school nursery" means the facilities of any dwelling, institution or organization which, for profit or non-profit, are used in the temporary care of six (6) children or more at any one time.

66. "Principal building" means a non-accessory building in which the principal use of this lot on which it is located is conducted.

67. "Public notice" means the publication of the time and place of any public hearing not less than 15 days prior to the date of said hearing in the newspaper of record.

68. "Public place" means an open or unoccupied public space more than twenty (20) feet in width which is permanently reserved for the purpose of primary access to abutting property.

69. "Retail store" means an establishment where goods are for sale to the ultimate consumer for direct consumption.

70. "Setback" means the required distance between a lot line and the closest wall of a conforming structure on the lot.

71. "Shop" means a place devoted primarily to the sale of a service or products, but the service is performed or the product to be sold is

prepared in its finished form on the premises. Packaging is not considered to be preparation.

72. "Sign, advertising or poster board" means a structure, regardless of the material used in the construction of the same, that is erected, maintained or used to advertise a business or attraction.

73. "Sign, announcement or bulletin board" means a sign or bulletin board erected on the premises of a charitable, religious or public institution for its own use.

74. "Story" means that part of a building comprised between any floor and the floor or attic next above; the first story of a building is the lowest story having at least one-half (½) of its height of one or more walls above the highest level of adjoining ground.

75. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property. For the purposes of this chapter, an alley is not a street.

76. "Street, front" means the street or public place upon which a lot abuts. If a plot abuts upon more than one street or public place, it shall mean the street designated as the front street in the owner's application for a building permit.

77. "Street line" means the dividing line between a lot and a public street, alley or place.

78. "Street wall" means the wall of the principal building nearest the street under consideration.

79. "Structure" means anything constructed or erected, the use of which requires location on the ground or attached to something having location on the ground, but not including fences up to forty-two (42) inches in height, or poles and appurtenances thereto used for the provision of public utilities.

80. "Variance" means a modification or variation of the provisions of this chapter as applied to a specific piece of property, as distinguished from rezoning.

81. "Yard, front" means the space, unobstructed to the sky, open for the whole width of the lot extending from the nearest part of any building on the lot to the front lot line excluding cornices, eaves, gutters, or chimneys projecting not more than thirty (30) inches, steps, bay windows or similar features not extending through more than one story and which do not aggregate more than one-third (1/3) of the width of the frontage of the building, and vestibules not more than one story in height and

extending more than three (3) feet beyond the front wall of the principal building, one story open porches extending eight (8) or less feet into the front yard.

82. "Yard, rear" means the required open space, unobstructed to the sky, extending along the rear lot line (not a street line) throughout the whole width of the lot to the rear of the principal building, excluding cornices, eaves, gutters, and chimneys projecting not more than thirty (30) inches, uncovered steps, open porches not more than one story in height and extending not more than eight (8) feet into the rear yard, and accessory buildings.

83. "Yard, side" means the required open space, unobstructed to the sky, extending along the side lot line from the front yard to the rear yard, measured from the nearest point on the building to the side yard line, excluding cornices, eaves, gutters, chimneys, bay windows and open porches not exceeding three (3) feet in width, or similar features extending not more than one story in height which project into the side yard but are three (3) feet or less from the adjacent lot line.

84. "Zoning permits" means the permits issued by the enforcing officer authorizing the use of the land for the purpose specified in this chapter.

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165.03 DISTRICTS ESTABLISHED. For the purpose of this chapter, the City is hereby divided into nine (9) classes of districts, as follows:

"A-1" District	(Agricultural)
"R-1" District	(Single-Family Dwelling)
"R-2" District	(Two-Family Dwelling)
"R-3" District	(Multiple-Family Dwelling)
"R-4" District	(Mobile Home)
"C-1" District	(General Commercial)
"C-2" District	(Highway Commercial)
"I-1" District	(Industrial)
"I-2" District	(Heavy Industrial)

165.04 CLASSIFICATION OF NEWLY ANNEXED TERRITORY. All territory hereafter annexed to the City shall be in the "A-1" District (Agricultural) until such classification is subsequently changed by an amendment to the Zoning Ordinance.

165.05 MAP ADOPTED. The City is hereby divided into districts as shown on the Official Zoning Map which, together with all its designations and explanatory matter thereof, is hereby adopted by this reference thereto and declared to be a part of this chapter. The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: *Ordinance No. 10-5 of the City of Calmar, Iowa, adopted December 5, 1977*. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the Zoning Enforcement Officer is the final authority as the current zoning status of land and water areas, buildings, and other structures in the City.

165.06 CHANGES IN OFFICIAL ZONING MAP. If, in accordance with the provisions of this chapter, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map, and a certified copy of the amending ordinance shall be attached to or kept with the Official Zoning Map. On the certified copy of the amending ordinance shall be placed the certificate of the official making the change in the Official Zoning Map and the date thereof. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a

violation of this chapter and punishable as provided under Section 165.49 of this chapter.[†]

165.07 REPLACEMENT OF MAP. In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Council may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Clerk, and bearing the seal of the City under the following words: *This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance No. 10-5 of the City of Calmar, Iowa, and as amended by Ordinances numbered* _____.

165.08 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following City limits shall be construed as following City limits.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

165.09 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district are minimum regulations and apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

[†] See EDITOR'S NOTE at the end of this chapter for ordinances adopted amending the Zoning Map. Also see Appendix for summary of procedure for requesting rezoning and amendment of Zoning Map.

1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be 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.

2. No building or other structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of the lot area; or to have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein required; or in any other manner contrary to the provisions of this chapter.

3. 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, or off-street parking or loading space similarly required for any other building.

4. 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 this chapter.

5. Not more than two (2) buildings shall be permitted on any lot, tract, or parcel of land until the same has been platted in accordance with the laws of the State of Iowa, except as may be otherwise specifically provided in this chapter.

6. No building in the rear of any principal building on the same interior lot shall be used for residence purposes, except as may be otherwise specifically provided in this chapter.

7. Any lot upon which a principal building is placed shall abut on a street or a public place.

8. Nothing in this chapter shall prevent the restoration of any wall or other portion of a building declared unsafe by any authorized public official.

165.10 NONCONFORMING AT ADOPTION. Within the various districts established by this chapter or its amendments, there exist structures and uses of land with or without nonconforming structures which were lawful or vested nonconforming uses prior to the adoption of this chapter or its amendment, but which would be prohibited, regulated or restricted under the provisions of this chapter. It is the intent of this chapter to permit these nonconformities to

continue even though they are incompatible with the district in which they are located so long as provisions hereinafter set forth are complied with; however, it is the general intent to restrict nonconforming use and prohibit indefinite prolongation of the life of any nonconforming structure or use so that ultimately uniformity will prevail.

165.11 NONCONFORMING USES OF LAND. The lawful use of land upon which no building or structure is erected or constructed, which is a vested nonconforming use under this and prior zoning ordinances as adopted or amended, or which becomes nonconforming under ordinances as adopted or amended, may be continued so long as such use remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel.

3. No structure of building shall be constructed on or moved onto the land, unless the use is changed to a use permitted in that district.

4. 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 district regulations for the district in which such land is located.

165.12 NONCONFORMING USES OF STRUCTURES. If a lawful use of vested nonconforming use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located, shall be enlarged, extended, reconstructed, moved, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time it became nonconforming. No such use shall be extended to any land outside such building.

3. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature or a more restricted use. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

4. In the event that a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of one year, the use of the same shall thereafter conform to the use permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall terminate the authorization for the nonconforming use of the land.

165.13 NONCONFORMING STRUCTURES. Where a structure is nonconforming by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued for as long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.

2. Should such structure be destroyed by any means to an extent of more than sixty percent (60%) or more of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter, provided it is reconstructed within six (6) months of such happening.

165.14 MAINTENANCE AND REPAIR TO NONCONFORMING STRUCTURES. Nothing is in this chapter shall prohibit the maintenance and repair of nonconforming structures to keep such a structure in sound and safe condition, provided that no structural enlargement, extension, alteration or change shall be made to increase the degree of nonconformity.

165.14A HOME OCCUPATION. Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the zoning administrator. The regulations in this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that when properly limited and regulated, such activities can take

place in a residential structure without changing the character of either the neighborhood or the structure.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

A. No more than one person who is not a resident on the premises shall be employed;

B. No more than twenty-five percent, including storage area, of more than one floor of the dwelling unit, shall be devoted to the home occupation;

C. No alteration of the principal residential building shall be made which changes its character and appearance as a dwelling.

D. No stock of goods shall be displayed or sold on the premises in excess of storage area available;

E. The home occupation shall be conducted entirely within the principal dwelling unit, and in no event shall such use be apparent from any public way;

F. There shall be no outdoor storage equipment or materials used in the home occupation;

G. No more than one commercially licensed vehicle used in connection with any home occupation shall be parked on the property;

H. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residence shall be permitted;

I. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other harmful emissions;

J. No sign, other than one unlighted sign not over three square feet in any area, attached flat against the dwelling and displaying only the occupant’s name and occupation, shall advertise the presence of the home occupation;

K. There shall be no off-premises signs or advertising.

2. Home Occupations Permitted. Permitted home occupations include, but are not limited to those listed. However, each permitted home occupation shall be subject to the use limitations set out in subsection 1 above.

A. Providing instruction to not more than four students at a time;

B. Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents, technology and design services, appraisers and real estate agents;

C. Office facilities for ministers, priests and rabbis;

D. Office facilities for salespersons, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises;

E. Studio of an artist, photographer, craftsperson, writer or composer;

F. Home employment of a physically, mentally or emotionally handicapped person who is unable to work away from home because of a disability.

(Ord. 350 –May 11 Supp.)

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165.15 "A-1" DISTRICT (AGRICULTURAL). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "A-1" District. This district is established to accommodate an area predominately agricultural in character or undeveloped for urban use. As urban development expands, areas, suitable for such use will be rezoned according in the Land Use Plan.

A-1 DISTRICT

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Farms, agriculture uses, orchards and plant nurseries	None
2. Single-family dwellings	2 spaces per unit
3. Parks, recreation, wildlife and conservation areas	5 spaces for each acre developed for active usage
4. Golf courses and country clubs except miniature courses or driving ranges operated for a profit	3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater
5. Cemeteries	20 spaces which may be located on interior drives
6. Churches	1 space for every 8 seats in the main auditorium
7. Kennels and riding stables	2 spaces plus 1 space for every 200 square feet of floor area
8. Utility systems and substations but not including equipment storage buildings or yards or administrative or sales offices	1 space for each employee on the site plus 1 space for each vehicle used by the facility
9. Railroads	None
10. Airports and landing fields	1 space per employee plus 2 spaces per airplane hangar space

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership.
2. Farm buildings incidental to agricultural uses.
3. Private garages, swimming pools, tennis courts, gardens and greenhouses not operated for commercial purposes.
4. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon the completion of the construction work.
5. Roadside stands for the sale of produce raised on the premises.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Agricultural service businesses involving the processing, storage and sale of grain for seed, or for livestock and poultry feed; the sale of feed supplements; the buying and temporary storage of wool or hides; trenching and tiling; but not including the sale or display of farm machinery, petroleum products, building materials or appliances; provided that the business has no exterior display or open storage of materials visible from the public road, produces no offensive noise, vibration, smoke, dust, odor, heat, glare, or electrical interference detectable within the limits of the nearest dwelling other than that of the owner or operators and that one parking space for each employee and one space for each vehicle used by the business and seven customer parking spaces are provided.
2. Concrete or asphalt mixing or batching plants for temporary use during construction, repair or maintenance of public roads, highways or other public facilities, provided that the area is restored to a suitable condition free of refuse or debris.
3. Mining, quarrying, lumbering and extraction of minerals and raw materials including facilities for storing and transporting such materials, provided that such use shall not adversely affect surrounding properties, that one parking space for each employee and each vehicle used by the operation is provided, that prior to approval of the special exception, a plan is submitted to and approved by the Board of Adjustment for restoration of the area to a condition compatible with the surrounding area upon conclusion of the operation.
4. Tourist campground, provided that water and sewage disposal systems are approved by the City or County Board of Health; that drives shall have all-weather surface; that no campsite is closer than 50 feet to any property line; and that five parking spaces plus one for each campsite are provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Area .....1 acre Width..... 100 feet	Front:.....50 feet Rear:.....50 feet Side .....20 feet Street side, corner lot .....30 feet	3 stories or 40 feet

PERMITTED SIGNS

1. Identification signs and home occupation signs not to exceed 2 square feet in area.
2. Church or public bulletin boards not to exceed 15 square feet in area.
3. Farmstead home occupation signs and agricultural service business signs identifying the business or service not to exceed 12 square feet in area.
4. Temporary signs advertising the sale or lease of the premises not to exceed 12 square feet in area.
5. Permitted signs shall be located at least 25 feet from the lot line.
6. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.
7. Illumination of signs and bulletin boards shall be indirect, non-intermittent lighting.
8. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. Poultry, livestock or fur-bearing animals shall be kept a minimum distance of 300 feet from the nearest residential development. This does not apply to the usual keeping of household pets not for commercial use.
2. No dwelling unit shall be created in a basement as defined herein unless every habitable room has at least one window facing directly outdoors; the total window area for every habitable room shall be not less than ten percent (10%) of the floor area of such room; and every such dwelling unit shall have a primary and secondary means of egress, one of which is directly outdoors.

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165.16 "R-1" DISTRICT (SINGLE-FAMILY DWELLING). The regulations set forth in this section, or set forth in this chapter and referred to in this section, are the regulations in the "R-1" District. This district is established to accommodate single-family dwellings and uses customarily found in low-density residential areas, such as churches, public and parochial schools, golf courses and parks.

R-1 DISTRICT

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Single-family dwelling	2 spaces per unit
2. Parks and recreation areas	5 spaces for each acre developed for active usage
3. Community meeting or recreation building	1 space for every 50 square feet of floor area
4. Golf courses and country clubs except miniature courses and driving ranges operated for profit	3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater
5. Cemeteries	20 spaces which may be located on interior drives
6. Churches	1 space for every 8 seats in main auditorium
7. Elementary, secondary and post-secondary schools	1 space for each classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
8. Beauty salons and barber shops provided that no more than one person who is not residing on the premises shall be employed	
9. Funeral homes	1 space for every 4 seats in main chapel
10. Bed and breakfast home, tea room, guest house	1 space per room

(Ord. 334 – Jul. 08 Supp; Ord. 350 – May 11 Supp.)

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises.
2. Private garages, swimming pools, tennis courts, gardens, greenhouses not operated for commercial purposes.
3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.
4. Home occupation as defined in Subsection 165.14A. ***(Ord. 350 – May 11 Supp.)***

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Public housing developments, rest, nursing and convalescent homes; homes for orphans and aged on sites of one acre or more, provided that such use is compatible with surrounding development and that off-street parking is provided as follows:

a. Public housing developments not for the elderly – 1 space per unit;
b. All others – 1 space for every 2 beds.

2. Railroads and utility systems and substations, but not including equipment storage buildings or yards or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 20 feet, and that 1 parking space per substation and 1 per employee at the site be provided.

3. Private schools, nursery schools and child nurseries, provided that such use will not adversely affect surrounding properties; that all necessary precautions and safeguards are taken to minimize the nonresidential character, traffic, parking and noise of the use and that 1 off-street parking space plus 1 space per employee be provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Area ..... 8,000 square feet Width ..... 75 feet Where a lot is not served by a public or community sanitary sewer system, the minimum lot area shall be not less than 20,000 square feet and the width not less than 125 feet.	Front: ..... 20 feet Rear: ..... 25 feet Side: One story ..... 6 feet Two stories ..... 8 feet Over two stories..... 10 feet Street side, corner lot ..... 15 feet	3 stories or 40 feet

PERMITTED SIGNS

1. Identification signs not to exceed 16 square foot in area.

(Ord. 350 – May 11 Supp.)

2. Church or public bulletin boards not to exceed 15 square feet in area.

3. Temporary signs advertising the sale or lease of the premises not to exceed 6 square feet in area.

4. Permitted signs shall be located at least 10 feet from the lot line or not more than 5 feet from the main building.

5. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.

6. Illumination of signs and bulletin boards shall not exceed 60 watts per face and shall be indirect, non-intermittent lighting.

7. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No dwelling unit shall be created in a basement as defined herein unless every habitable room has at least one window facing directly outdoors; the total window area for every habitable room shall not be less than 10% of the floor area of such room; and every such dwelling unit shall have a primary and secondary means of egress, one of which is directly outdoors.

165.17 "R-2" DISTRICT (TWO-FAMILY DWELLING). The regulations set forth in this section, or set forth in this chapter and referred to in this section, are the regulations in the "R-2" District. The R-2, Two-Family Dwelling District is intended to accommodate single and limited multi-family residential development at a moderately greater density than the R-1 District.

R-2 DISTRICT

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Single-family dwelling	2 spaces per unit
2. Two-family dwelling	2 spaces per unit
3. Rooming and boarding houses	1 space per bed or dwelling unit
4. Dormitory	1 space per 2 beds
5. Parks and recreation areas	5 spaces for each acre developed for active usage
6. Community meeting or recreation buildings	1 space for every 50 square feet of floor area
7. Cemeteries	20 spaces which may be located on interior drives
8. Churches	1 space for every 8 seats in the main auditorium
9. Elementary, secondary, or post-secondary schools	1 space for each classroom and office plus one space for every 6 seats in the main auditorium or stadium
10. Funeral home	1 space for every 4 seats in the main chapel
11. Bed and breakfast home, tea room, guest house	1 space per room ***(Ord. 350 – May 11 Supp.)***

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises.
2. Private garages, swimming pools, tennis courts, gardens and greenhouses not operated for commercial purposes.
3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.
4. Home occupation as defined in Subsection 165.14A.

(Ord. 350 – May 11 Supp.)

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Public housing developments, rest, nursing and convalescent homes and hospitals; homes for orphans and aged on sites of one acre or more, provided that such use is compatible with surrounding development and that off-street parking is provided as follows:
   a. Public housing developments not for the elderly – 1 space per unit;
   b. All others – 1 space for every 2 beds.

2. Railroads and utility systems and substations, but not including equipment storage buildings or yards or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 20 feet, and that 1 parking space per substation and 1 per employee at the site be provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Single-Family dwellings: Area ..... 8,000 square feet Width ..... 75 feet Two-family dwellings: Area ..... 10,000 square feet Width ..... 75 feet Where a lot is not served by a public or community sanitary sewer system, the minimum lot area shall be not less than 20,000 square feet per unit and the lot width not less than 125 feet	Front: ..... 20 feet Rear: ..... 25 feet Side: One story ..... 6 feet Two stories ..... 8 feet Over two stories ..... 10 feet Street side, corner lot ..... 35 feet	3 stories or 40 feet

PERMITTED SIGNS

1. Identification signs not to exceed 16 square foot in area.

(Ord. 350 – May 11 Supp.)

2. Church or public bulletin boards not to exceed 15 square feet in area.
3. Temporary signs advertising the sale or lease of the premises not to exceed 6 square feet in area.
4. Permitted signs shall be located at least 10 feet from the lot line or not more than 5 feet from the main building.
5. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.
6. Illumination of signs and bulletin boards shall not exceed 60 watts per face and shall be indirect, non-intermittent lighting.
7. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No dwelling unit shall be created in a basement as defined herein unless every habitable room has at least one window facing directly outdoors; the total window area for every habitable room shall not be less than 10% of the floor area of such room; and every such dwelling unit shall have a primary and secondary means of egress, one of which is directly outdoors.

165.18 "R-3" DISTRICT (MULTIPLE-FAMILY DWELLING). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "R-3" District. It is intended that this district is established to permit high density family developments within the City. The R-3 Multiple-Family Dwelling District is intended to accommodate single and multi-family residential development at a greater density than the R-1 and R-2 Districts.

R-3

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Two-family dwellings	2 spaces per unit
3. Multi-family dwellings	1.5 spaces per unit
4. Rooming and boarding houses	1 space per bed or suite
5. Parks and recreation areas not operated for profit	5 spaces for each acre developed for active usage
6. Community meeting or recreation buildings not operated for profit	1 space for every 50 square feet of floor area
7. Cemeteries	20 spaces which may be located in interior drives
8. Churches	1 space for every 8 seats in the main auditorium
9. Funeral homes	1 space for every 4 seats in the main chapel
10. Elementary, secondary and post-secondary school	1 space for each classroom and office plus 1 space for every 6 seats in the main auditorium or stadium
11. Private schools, nursery schools and child nurseries	1 space plus 1 space for each employee
12. Bed and breakfast home, tea room, guest house	1 space per room ***(Ord. 350 – May 11 Supp.)***

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises located on the same lot or contiguous lot under the same ownership. ***(Ord. 350 – May 11 Supp.)***

2. Private garages, swimming pools, tennis courts, gardens and greenhouses not operated for commercial purposes.

3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.

4. Home occupation as defined in Subsection 165.14A.

(Ord. 350 – May 11 Supp.)

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Public housing developments, rest, nursing and convalescent homes and hospitals; homes for orphans and aged on sites of one acre or more, provided that such use is compatible with surrounding development and that off-street parking is provided as follows:
   a. Public housing developments not for the elderly – 1 space per unit;
   b. All others – 1 space for every 2 beds.
2. Railroads and utility systems and substations, but not including equipment storage buildings or yards or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 20 feet, and that 1 parking space per substation and 1 per employee at the site be provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARD	MAXIMUM HEIGHT
Single-Family dwellings: Area ..... 8,000 square feet Width ..... 75 feet Two-family dwellings: Area ..... 10,000 square feet Width ..... 75 feet Multi-family dwellings: Area 10,000 square feet for 2 units, plus 1,000 square feet for each additional unit Width ..... 75 feet Where a lot is not served by a public or community sanitary sewer system, the minimum lot area shall be not less than 20,000 square feet per unit and the lot width not less than 125 feet	Front: ..... 20 feet Rear: ..... 25 feet Side: One story ..... 6 feet Two stories ..... 8 feet Over two stories ..... 10 feet Street side, corner lot ..... 20 feet	4 stories or 50 feet

PERMITTED SIGNS

1. Identification signs not to exceed 16 square foot in area.

(Ord. 350 – May 11 Supp.)

2. Church or public bulletin boards not to exceed 15 square feet in area.
3. Temporary signs advertising the sale or lease of the premises not to exceed 6 square feet in area.
4. Permitted signs shall be located at least 10 feet from the lot line or not more than 5 feet from the main building.
5. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.
6. Illumination of signs and bulletin boards shall not exceed 60 watts per face and shall be indirect, non-intermittent lighting.
7. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No dwelling unit shall be created in a basement as defined herein unless every habitable room has at least one window facing directly outdoors; the total window area for every habitable room shall not be less than 10% of the floor area of such room; and every such dwelling unit shall have a primary and secondary means of egress, one of which is directly outdoors.

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165.19 "R-4" DISTRICT (MOBILE HOME PARKS). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "R-4" District. This district is established to accommodate mobile home parks where such use will be compatible with existing and indicated future development.

R-4

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Single-family units	2 spaces per unit
2. Two-family units	2 spaces per unit
3. Parks and recreation area not operated for profit	5 spaces for each acre developed for active usage
4. Community meeting or recreation building not operated for profit	1 space for every 50 square feet of floor area
5. Private schools, nursery schools and child nurseries	1 space plus 1 for each employee
6. Laundromat	1 space per 300 square feet of floor area
7. Mobile Home Park	See 1 and 2 above

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or contiguous lot under the same ownership.
2. Private garages, swimming pools, tennis courts, gardens and greenhouses not operated for commercial purposes.
3. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.
4. Home occupation as defined in Subsection 165.14A.

(Ord. 350 – May 11 Supp.)

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Railroads and utility systems and substations, but not including equipment storage buildings or yards or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 20 feet, and that 1 parking space per substation and 1 per employee at the site be provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Single-family unit: Area ..... 8,000 square feet Width ..... 75 feet Two-family unit: Area ..... 10,000 square feet Width ..... 75 feet Mobile Home: Area ..... 2,500 square feet Width ..... 35 feet	Mobile Homes: Front: ..... 10 feet Rear: ..... 5 feet Side: ..... 3 feet Street side, corner lot ..... 8 feet Conventional-Built Homes: Front: ..... 20 feet Rear: ..... 25 feet Side: One story ..... 6 feet Two stories ..... 8 feet Over two stories ..... 10 feet Street side, corner lot ..... 35 feet	Mobile Homes: 2 stories or 20 feet Conventional-Built Homes: 3 stories or 40 feet

PERMITTED SIGNS

1. Identification signs and home occupation signs not to exceed 1 square foot in area.
2. Church or public bulletin boards not to exceed 15 square feet in area.
3. Temporary signs advertising the sale or lease of the premises not to exceed 6 square feet in area.
4. Permitted signs shall be located at least 5 feet from the lot line.
5. No use shall have more than one of each type of sign permitted for that use, although each sign may be a double-faced or back-to-back sign.
6. Illumination of signs and bulletin boards shall not exceed 60 watts per face and shall be indirect, non-intermittent lighting.
7. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No dwelling unit shall be created in a basement as defined herein unless every habitable room has at least one window facing directly outdoors; the total window area for every habitable room shall not be less than 10% of the floor area of such room; and every such dwelling unit shall have a primary and secondary means of egress, one of which is directly outdoors.

165.20 "C-1" DISTRICT (GENERAL COMMERCIAL). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "C-1" District. It is intended that this district is established to accommodate retail outlets, offices and service shops, wholesale outlets and service commercial establishments.

C-1

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Automotive sales, service and repair	No off-street parking required in this district except where indicated.
2. Dry cleaners, laundries or laundromats	
3. Liquor stores	
4. Clubs and lodges	
5. Retail businesses	
6. Real estate, insurance and financial institutions	
7. Personal service and repair shops	
8. Business and professional offices and studios	
9. Medical, dental and chiropractic clinics	
10. Restaurants, night clubs or taverns	
11. Public buildings and utilities but not including storage or maintenance yards or buildings	
12. Public garages, storage garages and parking lots	
13. Beauty and barber shops	
14. Printing, publishing and engraving shops	
15. Dance or music schools	
16. Plumbing, heating and air conditioning shops	
17. Commercial amusements	
18. Wholesale displays and salesrooms	
19. Lumber yards or building material sales yards	
20. Grocery stores	
21. Meat markets	
22. Personal service and small appliance repair shops	
23. Retail bakery shops	
24. Prescription pharmacies	
25. Business, professional and financial offices	
26. Dwelling units above a store or shop	1 space per unit
27. Motels and hotels	1 space per unit
28. Funeral homes	1 space for every 4 seats in the main chapel

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

None

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
None	Front: ..... None Rear: ..... 25 feet Side: None, except where a side yard is adjacent to an "R" district, the adjoining yard shall be not less than 15 feet. Street Side, Corner Lot: Same as side yard requirement.	4 stories or 50 feet

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 12 square feet in area.
2. Advertising signs, trade, business or industry identification signs for the business located on the site, provided that the following requirements are met:
   a. One free-standing sign per business not to exceed 25 feet in height and 50 square feet per face.
   b. Signs attached to a building shall not project above the height of the building or more than 4 feet from the wall of the building.
   c. No sign shall exceed 50 square feet in area or cover more than 10% of the building face on which it is located.
   d. The total combined area of all signs shall not exceed 100 square feet per business or more than one square foot of sign area for each lineal foot of lot frontage, whichever is greater.
3. No sign shall be located in, overhang, or project into a required yard.
4. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

165.21 "C-2" DISTRICT (HIGHWAY COMMERCIAL). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "C-2" District. This district is established to accommodate commercial activities which will be convenient to a motorist.

C-2

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Automotive display, sales, service and repair	1 space for every 300 square feet of sales, service or office floor area
2. Farm implement display, sales, service and repair	
3. Plant nursery and garden supplies sales	
4. Lumberyard or building materials sales	
5. Restaurant, night club, café, tavern or liquor store	1 space for every 100 square feet of floor area
6. Dance hall and skating rink	1 space for every 100 square feet of floor area
7. Drive-in eating and drinking establishment	5 spaces for every 100 square feet of floor area
8. Bowling alley	5 spaces per lane or alley
9. Drive-in bank	4 spaces per teller window
10. Motel, hotel, tourist camp ground	1 space per unit or campsite
11. Dwelling unit above a store or shop	1 space per unit
12. Bus terminal	6 spaces plus one off-street loading space for each bus serving the terminal
13. Funeral parlor	1 space for every 4 seats in main chapel
14. Railroads and public utilities but not including storage or maintenance yards and buildings	1 space per employee plus 1 space per vehicle used by the facility
15. Monument marker display and sales	
16. Plumbing, heating and air conditioning sales and service and repair	
17. Drive-in theater	Storage lanes outside ticket booth to accommodate 10% of the theater capacity
18. Golf driving range, miniature golf	3 spaces per tee plus 1 space per employee
19. Radio or television broadcasting station	5 spaces plus 1 space per employee

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Dwelling unit in a commercial structure for the operator or caretaker of the business.
3. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
4. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

None

MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT & SIDE YARDS	MAXIMUM HEIGHT
None	Front:.....25 feet Side: .....10 feet Rear:.....10 feet Street side, corner lot .....25 feet Where adjacent to an "A" or "R" district, the adjoining yard or yards shall be not less than 25 feet.	3 stories or 40 feet

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 12 square feet in area.
2. Advertising signs, trade, business or industry identification signs for the business located on the site, provided that:
   a. One free-standing sign per business not to exceed 25 feet in height and 50 square feet per face.
   b. Signs attached to a building shall not project above the height of the building or more than 4 feet from the wall of the building.
   c. No sign shall exceed 100 square feet in area or cover more than 10% of the building face on which it is located.
   d. The total combined area of all signs shall not exceed 150 square feet per business or more than one square foot of sign area for every 2 lineal feet of lot frontage, whichever is greater.
3. No sign shall be located in, overhang, or project into a required yard.
4. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No required parking space, driveway (other than direct connection to public street), or any merchandise display or exterior storage shall be provided in any required front yard or in the first 10 feet inside the property line of any required side or rear yard.
2. Overhead or area light fixtures shall be located and focused so as to avoid casting direct light upon any adjacent residential property.
3. All unsurfaced yard areas shall be covered with a suitable, well-maintained, perennial ground cover and landscape plantings.

[The next page is 805]

165.22 "I-1" DISTRICT (INDUSTRIAL). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "I-1" District. This district is established to accommodate business and industrial uses which do not create excessive noise, smell, dust or similar problems, but demand truck traffic, use extensive outdoor storage, use extensive warehousing, or other similar characteristics which make them incompatible uses in foregoing districts. A building or premises shall be used only for the following purposes:

I-1

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Manufacturing and processing uses that are wholly contained within a building and create no offensive noise, dust, odor, vibration or electrical interference	1 space for every 2 employees plus 1 space for every vehicle used by the industry
2. Wholesaling and warehousing uses but not including the bulk storage of anhydrous ammonia or petroleum products under pressure	
3. Contractors' shop and storage yard	
4. Public utilities including storage buildings and yards	
5. Truck and freight terminal, bus garage	
6. Building fabrication, including mobile homes, display and sales	
7. Welding, machine and repair shops	1 space for every 200 square feet of floor area
8. Animal hospitals and kennels	
9. Plumbing, heating, air conditioning and sheet metal shops	
10. Automobile paint and body shops	
11. Automobile and farm implement display, sales, service and repair	1 space for every 300 square feet of floor area
12. Lumber yards and building materials, sales and storage	5 spaces plus 1 space for each employee
13. Railroads	None
14. Multi-family dwellings ***(Ord. 342 – Jul. 09 Supp.)***	1.5 spaces per unit ***(Ord. 350 – May 11 Supp.)***
15. Single-family dwellings	2 spaces per unit ***(Ord. 350 – May 11 Supp.)***
All uses shall provide at least one loading space for every 10,000 square feet of floor area or fraction thereof.	

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.

3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 square feet is reserved and maintained by the occupants.

SPECIAL EXCEPTION USES AND STRUCTURES

None

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
None	Front:.....25 feet Rear:.....10 feet Side: .....10 feet Street side, corner lot .....25 feet Rear or side yards are not required where such yard adjoins a railroad.	50 feet

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 12 square feet in area.
2. Trade, business or industry identification signs for the business located on the site, provided that:
   a. Free-standing signs shall not exceed 25 feet in height.
   b. Signs attached to a building shall not project above the height of the building or more than 4 feet from the wall of the building.
   c. No sign shall exceed 100 square feet in area or cover more than 10% of the building face on which it is located.
   d. The total combined area of all signs shall not exceed 150 square feet per business or more than one square foot of sign area for every 2 lineal feet of lot frontage, whichever is greater.
3. All signs shall be located at least 15 feet from front and side lot lines.
4. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. Required front and side yards shall be maintained as open landscaped areas and shall not be used for parking, loading, storage or other uses.
2. Exterior storage other than the display of products for retail sale shall be enclosed by a fence or suitable landscape planting, the design or type of which shall be approved by the Planning Commission, and which will screen the stored materials from the view of public streets or residential areas.
3. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building, nor shall any junk, debris or waste material be permitted to accumulate on the site.

165.23 "I-2" DISTRICT (HEAVY INDUSTRIAL). The regulations set forth in this section, or set forth in this chapter when referred to in this section, are the regulations in the "I-2" District. This district is established to accommodate business and industrial uses whose operation might tend to produce excessive noise, odor, gas, smoke, dust, danger or tend to create a nuisance.

I-2

PRINCIPAL USES AND STRUCTURES	MINIMUM OFF-STREET PARKING
1. Manufacturing and processing uses	1 space for every 2 employees plus 1 space for every vehicle used by the industry
2. Wholesaling and warehousing	
3. Grain elevators and feed mill	
4. Acid manufacturing	
5. Bulk storage of liquid fuel	
6. Bulk storage of liquid fertilizer	
7. Cement, lime, gypsum or plaster of paris manufacturing	
8. Distillation of bones	
9. Fat rendering	
10. Fertilizer manufacturing	
11. Glass products manufacturing	
12. Salvage yards	
All uses shall provide at least one loading space for every 10,000 square feet of floor area or fraction thereof.	

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.
3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 square feet is reserved and maintained by the occupants.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.40(2) and other requirements contained herein, the Board of Adjustment may permit the following:

1. Stockyards, loading pens and livestock buying stations, provided that provision for drainage, sanitation and waste disposal are approved by the County Health Officer, and provided that it is located so that it will not create a nuisance for existing and potential development in the vicinity, and provided that one parking space for every 2 employees and one space for each vehicle owned by the industry be provided.
2. Auto wrecking and junkyards on sites of 5 acres or more, provided that the front yard is maintained as an open space free of weeds and debris, that no open burning of waste or discarded material is conducted on the site, and that 2 parking spaces plus one space for each employee and one space for each vehicle used by the operation be provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
None	Front:.....25 feet Rear:.....10 feet Side: .....10 feet Street side, corner lot .....15 feet Rear or side yards are not required where such yard adjoins a railroad.	50 feet

PERMITTED SIGNS

1. Temporary signs advertising the sale or lease of the premises not to exceed 12 square feet in area.
2. Trade, business or industry identification signs for the business located on the site, provided that:
   a. Free-standing signs shall not exceed 25 feet in height.
   b. Signs attached to a building shall not project above the height of the building or more than 4 feet from the wall of the building.
   c. No sign shall exceed 100 square feet in area or cover more than 10% of the building face on which it is located.
   d. The total combined area of all signs shall not exceed 150 square feet per business or more than one square foot of sign area for every 2 lineal feet of lot frontage, whichever is greater.
3. All signs shall be located at least 15 feet from front and side lot lines.
4. All signs shall be maintained in a neat and presentable condition; and in the event their use shall cease, they shall promptly be removed.

SPECIAL REQUIREMENTS

1. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building, nor shall any junk, debris or waste material be permitted to accumulate on the site.
2. Material storage yards shall be enclosed, where required, by planting screens or fences or other structures approved by the Planning and Zoning Commission.

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165.24 FRONT YARDS FOR THROUGH LOTS. On through lots, the required front yard shall be provided on both streets.

165.25 PORCHES AND DECKS. All porches and decks (enclosed or unenclosed) must fall within the minimum required front, rear and side yard setback requirements for your zoning district. ***(Ord. 329 – Nov. 07 Supp.)***

165.26 REAR YARDS ABUTTING ON ALLEYS. Where a lot abuts on an alley, one-half (½) of the alley width may be considered as part of the rear yard.

165.27 STAIRWAYS, FIRE ESCAPES, CHIMNEYS, ETC. PROJECTING INTO REAR YARDS. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may be permitted for a distance not to exceed five (5) feet, when these are so placed so as not to obstruct light and ventilation.

165.28 MULTIPLE BUILDINGS ON SINGLE LOTS. More than one principal building may be erected upon a lot in the case of commercial or industrial buildings or of multiple dwellings, hospitals, institutions and public buildings, where such uses are permitted, provided that all yards otherwise required on the lot for a single building are observed.

165.29 FENCES AND WALLS. In any "A-1," "R-1," "R-2," "R-3" or "R-4" District:

1. Fences and walls not exceeding six (6) feet in height are permitted within the limits of side and rear yards.

    A. They shall be constructed of material commonly used for landscape fencing (masonry block, lumber, chain-link, plastic, wrought iron or natural plantings, but shall not include corrugated sheet metal, salvage material or any type of fencing used for livestock including cattle panels or barbed wire).

2. The owner of a fence shall provide and maintain a two (2) foot setback from adjoining private property for the purpose of fence maintenance access.

3. The frame of a fence, including posts and supports, shall be placed on the inside of the fence.

4. Front yard fences not exceeding three (3) feet in height are permitted within the limits of the front yards.

    A. If the fence does not provide openings of at least seventy-five percent (75%) in area of the vertical surface to permit the transmission of light, air or vision through the vertical surface at a

right angle, a 20 foot visual clearance zone must be observed at all street intersections. A two-foot visual clearance zone must be observed when a corner front or side property line abuts an alley.

B. Fences in the front yard shall be considered "decorative" and shall only be constructed of material commonly used for landscape fencing (masonry block, lumber, plastic, wrought iron or natural plantings). No sheet metal, salvage material or any type of fencing used for livestock including cattle panels or barbed wire can be used.

(Ord. 328 – Nov. 07 Supp.)

165.30 WIDTH AND YARD REQUIREMENTS FOR LOTS PREVIOUSLY OF RECORD. Where a lot of record at the time of the effective date of this chapter has less width than herein required in the district in which it is located and the owner of such lot does not own any other parcel or tract adjacent thereto, said lot may nonetheless be used for a one-family dwelling or for any non-dwelling use permitted in the district in which it is located, provided that all yard requirements are met.

165.31 AREA REQUIREMENTS FOR LOTS OF RECORD. Where a lot of record at the time of the effective date of this chapter has less area than herein required in the district in which it is located, and the owner of such lot does not own any other parcel or tract adjacent thereto, said lot may nonetheless be used for a one-family dwelling or for any non-dwelling use permitted in the district in which it is located.

165.32 OFF-STREET PARKING AND LOADING.

1. Off-Street Parking Required. In all districts there shall be provided, at the time any building is erected or structurally altered (except as otherwise provided in this chapter), off-street parking spaces in accordance with the requirements as indicated in Sections 165.15 through 165.23 of this chapter.

2. Rules for Computing Off-Street Parking. In computing the number of off-street parking spaces required, the following rules govern:

A. "Floor area" means the gross floor area of the specific use.

B. Where fractional spaces result, the number of parking spaces required is the nearest whole number.

C. The parking space requirement for a use not specifically mentioned herein is the same as required for a use of similar nature.

D. Whenever a building erected or established after the effective date of this chapter is enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a

need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of enlargement or change.

E. Whenever a building existing prior to the effective date of this chapter is enlarged to the extent of fifty percent (50%) or more in the floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.

F. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

G. The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than nine (9) by nineteen (19) feet plus adequate area for ingress and egress.

H. No person shall park a vehicle or camper upon a public street or alley or in the front yard or any "R" or "C" district for storage purposes.

3. Locating Parking Space in Front Yard. Off-street parking space may be located within the required front yard in any "C-1," "C-2," "I-1" or "I-2" District, provided such space is 50 feet or more away from any "R" District. No off-street parking is permitted in the front yard of any "R" District, except upon a regularly constructed, duly authorized driveway.

4. Off-Street Loading Required. There shall be provided at the time any building is erected or structurally altered in a "C" or "I" District (except as otherwise provided in this chapter) one off-street loading space for the first 5,000 square feet of gross floor area plus one additional space for each 25,000 feet or any part thereof additional square feet of gross floor area.

165.33 SPECIAL USE PERMITS. The Board of Adjustment, after public hearing, and after receiving a report from the Planning and Zoning Commission, and subject to such protective restrictions as a Board of Adjustment may deem necessary, may authorize the location, construction, extension or structural alteration of a special use as listed in Sections 165.15 through 165.23 of this chapter.

165.34 DURATION OF PERMIT. All authorizations passed by the Council for special permits shall expire 180 days after the date of Council authorization unless a building permit has been issued and the actual construction started. Where unusual circumstances may prevent the compliance with the time requirement for start of construction, the Council may, upon written request by the affected party, extend the time for required start of construction an additional sixty (60) days. Excavation shall not be considered construction for the purpose of enforcing this chapter.

165.35 CLERK TO ENFORCE CHAPTER. The provisions of this chapter shall be enforced by the City Clerk.

165.36 ZONING COMPLIANCE CERTIFICATE.

1. Zoning Compliance Certificate Required. It is unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, razing or moving of any building or structure or of any portion thereof, without first having applied in writing to the building official for a permit to do so.

2. Application. Each application for a zoning compliance certificate shall be in writing, in the standard forms of the City, and filed in the office of the City Clerk. The application shall be accompanied by a plot plan of the lot upon which the building or structure is to be placed, reconstructed, enlarged or converted, showing the size of the lot, foundation dimensions, proposed front, rear and side yard depths of the proposed building or structure and any other existing accessory buildings on the lot.

3. Issuance. If after reviewing the application the Clerk finds that the building or structure is the proposed location complies with all the provisions of this chapter, said officer shall, upon payment of the required fee as prescribed by the City, issue a zoning compliance certificate therefor.

4. Refusal to Issue. If after reviewing the application the Clerk finds that the building or structure in the proposed location does not comply with the provisions of this chapter, said officer shall furnish the applicant with a statement, signed by the enforcing officer, refusing to issue such certificate and setting forth the reason for such refusal. The refusal by the Clerk to issue a certificate may be appealed by the applicant to the Board of Adjustment in the manner as provided herein.

5. Compliance Certificate Records; Fee. The Clerk shall keep a record of all applications filed, certificates issued or refused, and if refused and appealed, the final action thereof. The Clerk shall keep a record of all zoning compliance certificate fees collected and shall remit the amount of fees to the City's General Fund.

6. Expiration, Extension. Any compliance certificate under which no construction work has been commenced within six (6) months after the date of issue of said certificate or under which the proposed construction reconstruction or alteration has not been completed within two (2) years of the date of issue, shall expire by limitation; and no work or operation shall take place under such certificate after such expiration. A compliance certificate may be once extended for a period not exceeding six (6) months by the Clerk.

165.37 BOARD OF ADJUSTMENT.

1. Established; Membership. A Board of Adjustment is hereby established, which board shall consist of seven (7) members appointed by the Mayor, subject to confirmation by the Council. Appointments to the Board shall be for a term of five (5) years. Any vacancy shall be filled in the same manner for the unexpired portion of the term. Terms of office begin on January 1 of the year of appointment. Members may be reappointed.

2. Compensation. All members of the Board shall serve without compensation.

3. Regulations of Board. The Board may adopt, from time to time, subject to the approval of the Council, such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter.

4. Chairman; Meetings; Quorum. The Board shall annually elect its own Chairman and Secretary at the first meeting on or after January 1 of each year. Such Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of four (4) members shall be necessary to constitute a quorum. The concurring vote of four (4) members of the Board is necessary on all matters upon which it is required to pass under the provisions of this chapter.

5. Records of Board Required. The Secretary of the Board shall keep minutes of its proceedings showing the vote of each member upon each question. If a member is absent or fails to vote, the minutes shall indicate such fact. The Board shall keep records of its examinations and other official actions, which shall be on file in the office of the Clerk as a public record.

6. Appeals to Board Authorized; Procedure. Appeals to the Board may be taken by any person aggrieved by any decision of the City Clerk. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Secretary of the Board a written notice of appeal specifying the grounds thereof and the publication of the notice of appeal in a newspaper of record and of general circulation as provided by the regulations of the Board. The Secretary of the Board shall give prompt notice of such appeal to the Clerk, who shall forthwith transmit to the Board all papers and documents constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Clerk

certifies to the Board after the notice of the appeal shall have been filed, that by reason of facts stated in the appeal, a stay would, in the opinion of the Clerk, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record on application of notice to the Clerk and due cause shown.

165.38 FEE FOR APPEALS. All appeals to the Board filed with the Secretary shall be accompanied by a filing fee in the sum of eighty dollars ($80.00), payable to the City of Calmar, Iowa, to cover costs of publishing notice of appeal and other incidental expenses. No refunds shall be made of said fee or any part thereof.

165.39 DISPOSITION OF APPEALS. The final disposition of any appeal shall be in the form of a resolution by the Board, either reversing, modifying or affirming the decision or determination appealed from. A copy of such resolution shall be filed with the Clerk.

165.40 BOARD OF ADJUSTMENT POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties.

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.

2. Special Exceptions; Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds upon which it is requested.

B. Notice shall have been 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 section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

E. In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter and punishable under Section 165.49 of this chapter. 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 complete, or both, such action within the time limit set shall void the special exception.

3. Variances; Conditions Governing Application; Procedures.[†] To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board 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 this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

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

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this

[†] **EDITOR'S NOTE:** See the Appendix to this Code of Ordinances for summary of procedures for application for variance.

chapter to other lands, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in paragraph (2)(B) of this section.

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

D. The Board of Adjustment shall make findings that the requirements of paragraph 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 have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

G. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.49. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.41 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to have been made, and to that end shall have all the powers of the Administrative Officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse

any order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.42 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, or commission 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 by Chapter 414, Code of Iowa.

165.43 INTERPRETATION AND PURPOSE. In the interpretation and application, the provisions of this chapter are the minimum requirements, adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of law or ordinance, or with any rule, regulation or permit previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to use of buildings or premises; nor is it intended by this chapter to interfere or to abrogate or annul any agreement between parties; provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are required by any such existing provisions of law or ordinances, or by any such rule, regulation or permit, or by any such easement, covenant or agreement, the provisions of this chapter shall govern.

165.44 AMENDMENTS AUTHORIZED. From time to time, on its own initiative, on petition, or on recommendation by the Planning and Zoning Commission after public notice and hearings, provided by ordinance, and after a report has been made by the Planning and Zoning Commission, the Council may amend, supplement or change the regulations, districts, or official zoning map herein or subsequently established.

165.45 PETITION FOR AMENDMENT. Whenever the owners of fifty percent (50%) or more of the area of the lots in any district or part thereof desire amendment, supplement, or change in any of the provisions of this chapter applicable to such area, they may file a petition with the City Clerk requesting the City Council to make such amendment, supplement or change. Such petition shall be accompanied by a map or diagram showing the area affected by the proposed amendment, supplement or change, together with the boundaries of the said area and the names and addresses of all the owners of record in the Office of the County Recorder of Winneshiek County, Iowa, of lots therein and within a distance of 200 feet outside of the boundaries of said area; and such petition shall immediately be transmitted to the Planning and Zoning

Commission for an investigation and report. The Planning and Zoning Commission shall file its recommendations approving, disapproving, or modifying the proposed amendment, supplement or change with the Council within 30 days thereafter.

165.46 FEE FOR PETITIONS. All petitions for amendment filed with the City Clerk will be accompanied by a filing fee in the sum of fifteen dollars ($15.00) payable to the City of Calmar, Iowa, to cover costs of publishing notice of the proposed amendment and other incidental expenses. No refund shall be made of said fee or any part thereof.

165.47 VOTE REQUIRED WHEN AMENDMENT PROTESTED. If a written protest against any proposed amendment, supplement or change shall have been presented to the City Council, signed by owners of twenty percent (20%) or more, either of the area of lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending the depth of one lot or not exceeding 200 feet therefrom, or of those directly opposite thereto, extending the depth of one lot or not exceeding 200 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all the members of the City Council.

165.48 RENEWAL OF PETITION AFTER DENIAL. Whenever a petition requesting an amendment, supplement or change of any regulation prescribed by this chapter has been denied by the City Council, such petition cannot be renewed for one year thereafter unless it be signed by the owners of at least fifty percent (50%) of the property owners who previously objected to the change; this provision, however, shall not prevent the City Council from acting on its own initiative in any case or at any time as provided in this section.

165.49 VIOLATIONS; PENALTIES. Any person, firm, co-partnership, corporation, or other association of persons, whether acting directly or through employees or agents who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this chapter, shall upon conviction be subject to penalties for such violation. Each day such violation is committed or permitted to continue shall constitute a separate offense.

165.50 EXTRATERRITORIAL ZONING.

1. Extension of Zoning Regulations. The regulations contained herein shall provide for the extension of the zoning regulations of the City of Calmar for a distance of up to two (2) miles beyond the corporate limits of the City as provided for by Chapter 414 of the Code of Iowa, as amended.

2. Official Extraterritorial Zoning Map. The unincorporated territory designated within two (2) miles of the corporate limits of Calmar is hereby divided into districts as designated on the Official Extraterritorial Zoning Map, which together with the explanatory material thereon, is hereby adopted by reference and declared to be a part of this chapter.

3. Identification of Official Extraterritorial Zoning Map. The Official Extraterritorial Zoning Map shall be identified by the signature of the Mayor and attested to by the City Clerk under the following statement: *This is to certify that this is the Official Extraterritorial Zoning Map referred to in Section 10-5.59 of the Zoning Ordinance of the City of Calmar, Iowa, as adopted the 5th day of December, 1977, A.D.*" The Official Extraterritorial Zoning Map shall be on file in the office of the City Clerk and shall be the final authority as to current status of land, buildings, and other structures in the unincorporated area over which extraterritorial zoning regulations are extended.

4. Farms Exempt. No regulation or requirement adopted under the provisions of this chapter which permits extension of the City's zoning regulations outside the corporate limits shall be construed to apply to land, farm houses, farm barns, farm outbuildings or other structures, or erections which are primarily adapted, by reason of nature and area, for use for agricultural purposes while so used, provided, however, that such regulations or ordinances which relate to any structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of any river or stream, which may be contained herein, or which may be subsequently adopted, shall apply equally to agricultural and nonagricultural lands, buildings and structures.

A. Certificates. No zoning compliance certificates shall be required for the erection, construction, reconstruction, alteration, remodeling or expansion of any farm building, including farmstead dwellings, or the use of any land for uses customarily associated with the pursuit of agricultural enterprises while so used.

B. Application of Provisions. The provisions of this section shall apply only to the unincorporated areas over which the City is extending extraterritorial zoning regulations and where at

variance with any other provisions of the Zoning Ordinance, the provisions of this chapter shall govern.

5. Commissions and Boards. Upon extending zoning jurisdiction beyond the corporate limits, the City Council shall increase the size of the Planning and Zoning Commission and Board of Adjustment, each by two (2) members. Said additional members shall be residents of the area outside the City limits over which the zoning jurisdiction is extended. They shall be appointed by the Board of Supervisors of the counties in which such extended area is located and for the same terms of office and have the same rights, privileges, and duties as other members of each of said bodies.

6. Appeals from the Board of Adjustment. Property owners affected by such extraterritorial zoning regulations shall have the same rights of hearing, protest and appeal as those within the City.

(Ch. 165 codified - May 06 Supp.)

EDITOR'S NOTE

The following ordinances have been adopted amending Ordinance No. 210, entitled "Zoning Ordinance," adopted December 5, 1977, and are in full force and effect.

ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
218	November 5, 1979	349	March 7, 2011
219	November 5, 1979	357	May 6, 2013
226	June 15, 1981	380	October 5, 2015
227	October 5, 1981	385	January 19, 2016
228	October 5, 1981	388	May 16, 2016
229	November 2, 1981		
230	December 14, 1981		
244	March 3, 1987		
245	May 4, 1987		
246	May 4, 1987		
265	June 3, 1996		
269	December 1, 1997		
291	October 7, 2002		

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CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Purpose
166.02 Definitions
166.03 Plat Approval and Acceptance
166.04 Information Required on Plats
166.05 Attachments to Plats
166.06 Minimum Standards of Design and Development
166.07 Enforcement
166.08 Variations

166.01 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety, and general welfare.

166.02 DEFINITIONS. For the purpose of this chapter, the following words and terms are defined:

1. "Building line" means a line between which and an abutting street or public alley no buildings or structure may be erected.

2. "Commission" means the City Planning and Zoning Commission.

3. "Metes and bounds" means the method used to describe a tract of land intended to be used for dwelling or other purposes, so that it can be recorded in the County Recorder's office, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot and block number.

4. "Plat" means a map, drawing, or chart of a subdivision.

5. "Subdivision" means the division of a lot, tract, or parcel of land into three (3) or more lots, plots, sites, or other divisions of land, for the purpose of either immediate or future sale or of building development. It also includes resubdivision of land or lots.

166.03 PLAT APPROVAL AND ACCEPTANCE. Procedures for plat approval and acceptance are as follows:

1. Preliminary Approval by Commission. Whenever the owner of any tract or parcel of land is required by law to secure the approval of the Commission or of the Council to any plat or subdivision, said owner shall file said preliminary plat in triplicate, together with any other required information, with the Clerk. Two (2) copies of said plat and other information shall be referred by the Clerk to the Commission for its

preliminary study and approval. Such preliminary plat shall contain such information and data as outlined in Section 166.04(1).

2. Study of Preliminary Plat by the Commission. The Commission shall study such preliminary plat and other information submitted to see if it conforms with the requirements of this chapter and shall approve or reject such plat and plan within thirty (30) days after the date of the submission thereof to the Commission. The approval of the preliminary plat and plan constitutes authorization to proceed with the preparation of the final plat, but the final plat must be submitted to the Commission and the Council for approval as provided in the following section.

3. Final Plat of Subdivision. The subdivider shall also file with the Clerk for submission to the Commission, for its approval or rejection, the final plat and plan of the subdivision which shall contain the data and information outlined in Section 166.04(2) of this chapter. If the Commission approves the final plat and plan, such approval and the date thereof shall be noted on the plat and plan over the signatures of both the Chairperson and the Secretary of the Commission.

4. Approval by the Council. After the approval of the final plat and plan by the Commission, it shall be submitted to the Council for final approval and for acceptance of all streets, alleys, easements, parks, or other areas preserved for or dedicated to the public.

5. Approval by the Council after the Disapproval of the Commission. If the Commission does not approve the final plat and plan of the subdivision, the Council may approve said plat and plan and accept the streets, alleys, easements, parks, or other areas preserved for or dedicated to the public by said plat or plan, only by a four-fifths (4/5) vote of the entire membership of the Council.

6. Filing in Office of Clerk. After approval of the final plat and plan by the Council, two (2) copies of such final plat and plan shall be filed in the office of the Clerk.

166.04 INFORMATION REQUIRED IN PLATS. Plat information requirements are as follows:

1. Preliminary Plat. In seeking to subdivide land, the owner shall submit two (2) copies of a preliminary plat to the Commission before submission of the final plat. The preliminary plat shall be drawn to scale and shall show the proposed location and width of streets, lot lines, building lines, and areas of each proposed lot. The plat shall also show surrounding streets, lots, water courses, sewers and water mains. The scale of such preliminary plat shall not be less than one (1) inch to one

hundred (100) feet. Wherever the land is so rolling or rugged that the preliminary location and grades of streets and sewers cannot be properly considered without the aid of a topographical map, the Commission may require the developer to provide a topographical map of the property showing contour intervals of not less than five (5) feet. Any plat not containing all information specified above shall not be considered by the Commission. A filing fee of one hundred dollars ($100.00) shall be required to cover processing costs.

2. Final Plat. The final map on a reproducible original (mylar) and two (2) prints thereof shall be submitted to the Commission. It shall show:

A. The boundaries of the property.

B. The lines of all proposed streets and alleys, with their widths and names, and any other areas intended to be dedicated to public use; the names of the streets shall be a continuation of the existing method of naming streets in the City.

C. The lines of adjoining streets and alleys, with their widths and names.

D. All lot lines, building lines, and easements, with figures showing their dimensions.

E. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area or of the lots, streets, alleys, easements, and building line setbacks, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.

F. Radii, arcs, and chords, points of tangency, central angles for all circulinear streets, and radii for all rounded corners.

G. All monuments, together with their descriptions.

H. Title and description of property subdivided, showing its location and extent, points of compass, scale of plan, classification of property under zoning law, and name of subdivider and of registered land surveyor staking the lots.

I. Profiles may be required of any streets.

J. Any private restrictions shall be shown on the plat or reference made to them thereon; and plats shall contain proper acknowledgments of owners and mortgagees accepting said platting and restrictions.

166.05 ATTACHMENTS TO PLATS. Final plats shall be accompanied by the following documents:

1. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

2. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

3. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

4. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

5. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

166.06 MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT. No preliminary or final plat of a subdivision shall be approved by either the Commission or by the Council unless it conforms to the minimum standards and requirements contained in this chapter.

1. Acre Subdivision. Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be subdivided into small building plots, consideration must be given to the street and lot arrangement of the original subdivision so that additional streets can be opened which will permit a logical arrangement of smaller lots.

2. Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street and alley arrangement must also be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted.

3. Streets in Relation to Railroads. When the area to be subdivided adjoins a railroad right-of-way, no street shall be dedicated which is parallel or approximately parallel to the railroad, unless it is one hundred (100) feet or more from the line of the railroad right-of-way.

4. Street Right-of-way Width. The minimum width of street right-of-ways shall be sixty (60) feet.

5. Street Width. The minimum width of streets shall be twenty (20) feet, except in those cases where topographical conditions, existing streets, or special conditions make a street of less width more suitable. Under these conditions the Commission may waive the minimum requirements.

6. Street Jogs at Intersections. At street intersections, street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited, except where topographic or other physical conditions make such jogs unavoidable.

7. Street Angles at Intersections. Streets shall intersect as nearly at right angles as possible, and no street shall intersect any other street at an angle less than sixty (60) degrees.

8. Dead-end Streets. Dead-end streets are prohibited except where a street is planned to continue past the subdivider's property. A dead-end street shall terminate in a temporary circular right-of-way with a minimum diameter of ninety (90) feet, unless the Commission approves an equally safe and convenient space. No dead-end street shall be longer than six hundred (600) feet. Cul-de-sacs shall not exceed six hundred (600) feet in length and shall be provided with a turn-around with a minimum right-of-way diameter of one hundred twenty (120) feet. The length of the cul-de-sac shall be measured along its centerline from the turn-around to the intersecting point.

9. Alleys. The minimum width of an alley in a residential block shall be fifteen (15) feet (alleys are not recommended for residential districts except under unusual conditions). Alleys will be required in the rear of all business lots and shall be at least twenty (20) feet wide.

10. Easements Where There Are No Alleys. Where alleys are not provided, easements of not less than five (5) feet in width shall be provided on each side of all rear lot lines and on those side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas, water, and heat mains. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.

11. Length of Blocks. No blocks shall be longer than one thousand (1,000) feet between street lines. Blocks over seven hundred fifty (750) feet in length shall provide a cross walk near the center of the block. The right-of-way through such blocks shall not be less than ten (10) feet in width.

12. Width of Blocks. The width of blocks shall not be less than two hundred (200) feet and not more than three hundred (300) feet, except that when such requirement would entail unusual and substantial difficulties or hardship or when it is desired to provide a development containing large residential lots, the Commission and the Council may modify such requirements and allow the subdivider to plat blocks of other widths.

13. Lot Lines. All side lines of lots shall be at right angles to straight street lines or radial to curved street lines, unless a variation of this rule will give a better street and lot plan. Lots with double frontage shall be avoided.

14. Size and Shape of Lots. The minimum dimensions for lots shall be sixty-six (66) feet for width and one hundred (100) feet for depth, and in no case shall a lot that is to be used for residential purposes contain less area than is required by the lot area regulation of the zoning district in which the property is located. In laying out an arrangement of lots, the subdivider should, whenever possible, arrange for wide, shallow lots and avoid long, narrow lots.

15. Corner Lots. All corner lots shall have extra width sufficient to permit the maintenance of building lines on both the front end and side streets as required by any applicable zoning regulations.

16. Building Lines. Building lines shall be shown on all lots intended for residential use of any character, and on commercial lots immediately

adjoining residential areas. Such building lines shall not be less than required by any applicable zoning regulations.

17. Character of Development. The Commission shall confer with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum deed restrictions be placed upon the property, which restrictions would prevent such construction which would clearly depreciate the character and value of adjoining property. The Commission may also require that the deed restrictions provide for the creation of a property owners' association which would be responsible for the enforcement of the restrictions and for the protection and improvement of the general welfare of the subdivision.

18. Improvements. Before any final plat of any subdivision is finally approved for recording, the subdivider shall make and install improvements as required in paragraphs A-G of this subsection throughout the area to be platted. In lieu of final completion of the minimum improvements before the plat is finally approved, the subdivider may post a bond (approved by the Council) with the City or make other provisions which will insure to the City that the improvements will be completed by the subdivider within one year (or other time period if so defined) after final approval of the plat. The amount of the bond shall be not less than the estimated cost of the improvements, and the amount of the estimate must be approved by the City. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same.

A. Grading and Improving Streets. The subdivider shall grade and improve all streets and alleys contained within the subdivision. The surfacing of such streets and alleys shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas, but in no case shall it consist of less than either 6½ inches of Portland Cement over a 4-inch base of drainage rock or 4½ inches of Asphaltic Cement over an 8-inch base of rock. If the Asphaltic Cement surface is used, minimum 30-inch wide Portland Cement curb and gutter is required for each side of the surfacing. The street design shall be certified by a registered professional engineer.

B. Tile Drainage. Edges of new streets that do not have storm sewer adjacent to them are to be drained with drainage tile with a

minimum diameter of 5 inches. The tile is to be designed to drain the base rock of the street and provide a discharge for sump pumps from homes in the new subdivision. Drain tiles should normally be designed for a depth of approximately 4½ feet, but depth may have to be adjusted in design to accommodate other drain line considerations. Generally, the drain lines shall be located just outside the back of curb.

C. Grading and Improving Lots. The subdivider shall, whenever necessary, grade any portion of the property subdivided into lots so that each lot that is to be offered for sale will be usable and suitable for the erection of residential or other structure thereon.

D. Sanitary Sewers. The subdivider shall install sanitary sewer mains and provide a service connection to each lot. Such installations shall be in accordance with the requirements of the City, County, and the Iowa Department of Natural Resources. The sewer improvements shall be designed by a registered engineer to provide adequate capacity for installation. If area beyond the subdivision is to be drained through the mains in the future, the subdivider's engineer is to discuss the design with the City. Any costs to the City for up-sizing the lines beyond requirements of the subdivision to allow for future flows shall be resolved before the lines are constructed. As a minimum, the mains shall be constructed using PVC SDR-35 pipe between precast manholes equipped with steps. Tees, wyes, or saddles shall be used for the connection of each service line to the mains. Service lines shall be made of PVC and their locations marked by use of a marker wire buried along the service line. A service connection permit must be obtained from the City before each connection is constructed, and the connection must be inspected by the City before the trench is backfilled. Service lines to single family buildings shall be, as a minimum, Schedule 40 PVC pipe, 4 inches in diameter. Service lines to multi-family buildings shall be, as a minimum, Schedule 40 PVC pipe, 6 inches in diameter.

E. Potable Water. The subdivider shall install water mains, valves, and fire hydrants in the subdivision area. Such installations shall be in accordance with the standards, guidelines and specifications of the City and State Department of Natural Resources. Fire hydrant locations shall meet with the approval of the City Water Department and the City Fire Chief. As a minimum, the water mains shall be 6-inch diameter PVC DR-18

or DIP pipe, with mechanical joint cast or ductile iron fittings. If PVC mains are used, a tracer wire is to be installed with the pipe, and a proper saddle shall be used at each service connection to the main. Corporations are to be installed on each service at the main, and curb stop and box are to be installed at the right-of-way/lot line. Only copper service line is to be used from the main to a distance of at least 18 inches past the curb stop. For new construction, copper service line is to run to the house. If the service line exists as plastic, a tracer tape and wire are to be installed 12 inches below ground level over the line from the house to the curb stop. If the City desires a water main to be up-sized from the minimum 6-inch main, it will cover up-sizing costs. Service connection permits must be obtained from the City before each is constructed, and the City is to inspect each connection before the trench is backfilled. All gate valves shall be resilient wedge, Mueller Model A-2360-20 with mechanical joint ends. All valves deeper than 6½-foot bury shall have pinned extension operators. All fire hydrants shall be Mueller Centurion Model A-423 with 6-inch mechanical joint inlet. Hydrants shall include two 2½-inch hose nozzles and one 4½-inch pumper nozzle. Nozzle threads shall match common existing City hydrant threads. Unit shall have a break-away traffic flange at ground level.

F. Storm Water Drainage. As a minimum, reinforced concrete pipe shall be used under either present or future street surface areas. ***(Ord. 391 – Aug. 16 Supp.)***

G. Other Improvements. It may also be desirable to install other improvements such as sidewalks, electric lines, street lights, gas mains and similar facilities in any subdivision. Whenever the Council deems it necessary, they may require that such improvements shall be installed before the plat is approved.

166.07 ENFORCEMENT. Enforcement provisions are as follows:

1. Filing of Plat. No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed herein.

2. Building Permits. The Administrative Officer shall not issue building or repair permits for any structure located on a lot in any subdivision, the plat of which has been prepared after the date of the adoption of the 2002 Code of Ordinances but which has not been approved in accordance with the provisions contained herein. An

original tract may be divided into two (2) lots or tracts and not be subject to the provisions of this section. If an original tract shall be divided into more than two (2) lots or tracts after the date of the adoption of the 2002 Code of Ordinances, no building or repair permits shall be issued for any structure located or proposed to be located on any of such tracts or lots, unless or until a plat as required by this chapter has been fully approved by the Council.

3. Public Improvements. The Council shall not permit any public improvement over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of the adoption of the 2002 Code of Ordinances unless such subdivision or street has been approved in accordance with the provisions contained therein.

166.08 VARIATIONS. Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the subdivision improvements would result in real difficulties and substantial hardships, the Council may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner, but at the same time the public welfare and interests of the City are protected and the general intent and spirit of this chapter are preserved. .

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CHAPTER 167

STORM WATER MANAGEMENT

167.01 Purpose
167.02 Definitions
167.03 Areas Requiring Storm Water Management Plan
167.04 Storm Water Management Plan Requirements
167.05 Storm Water Management Plan Design Requirements
167.06 Submission and Approval of Plan
167.07 Ownership By City
167.08 Private Ownership
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167.01 PURPOSE. It is the purpose of this Chapter to establish policies to manage and control Storm Water Runoff occurring from new Development of residential, commercial, and industrial areas. The goal is to reduce peak runoff caused by Development of the land. This will result in cost savings to the overall storm sewer collection system by reducing the size of improvements required. In addition, increased safety, erosion control, and downstream flow reduction would be expected benefits.

167.02 DEFINITIONS. Wherever used in this Chapter and printed with an initial capital letter, the terms listed below will have the meanings indicated. Words using the present tense shall include the future; the singular shall include the plural; the plural shall always include the singular. The term 'shall' is always mandatory, and the term 'may' is permissive.

1. "Biodetention System" Storm water management practice incorporating plantings, engineered soil mix to promote infiltration, stone aggregate base layer, and underdrain.

2. "Capacity (of a Storm Water Facility)" The maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.

3. "City" The City of Calmar, Iowa.

4. "City Council" The City Council of the City of Calmar, Iowa.

5. "Civil Engineer" A professional engineer licensed in the State of Iowa to practice in the field of civil works.

6. "Control Structure" Part of a Storm Water Management Facility designed to regulate the Storm Water Runoff Release Rate.

7. "Design Storm" A storm with characteristics of the average storm for the desired Return Frequency.

8. "Detention Basin" A Storm Water Management Practice, above ground or below ground, wet or dry, designed, constructed or modified to provide short term storage of storm water runoff, which reduces the peak outflow to a rate less than the peak inflow.

9. "Development" The improvement of land from its existing state or an area of land improvement.

10. "Developed Condition" Hydraulic and hydrologic site characteristics that occur upon completion of a Development.

11. "Drainage Area" An area of land contributing to Storm Water Runoff.

12. "Iowa Storm Water Management Manual" Document maintained by Iowa Department of Natural Resources providing design guidelines for Storm Water management.

13. "Ordinance" The portion of the City Municipal Code entitled "Storm Water Management Ordinance".

14. "Overflow Path" The path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system or Detention Basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.

15. "Permeable Pavement" A system consisting of permeable pavers, porous hot mix asphalt, or pervious Portland Cement Concrete, with storage aggregate and underdrain, designed to manage storm water.

16. "Pre-Developed Condition" Hydraulic and hydrologic site characteristics that occur prior to a proposed Development, including natural storage areas, drainage ways, drainage tiles, and highway drainage structures.

17. "Regional Storm Water Management Facilities" Those facilities designed to handle Storm Water Runoff from several lots which may include the entire subdivision, or multiple subdivisions, and may include existing developed areas.

18. "Return Frequency" Statistic parameter that defines the average occurrence time for a storm of a given magnitude.

19. "Site" A lot, parcel, or tract of land, or portion thereof, where Development is occurring, or has occurred, and may or may not, require additional permits.

20. "Site Plan" An overall plan of the area to be developed including, but not limited to: proposed building location(s), proposed parking and

drive locations, proposed utilities including storm sewer components and subsurface drain tile, proposed ground elevations with drainage patterns highlighted, roof drainage outlet locations, other underground utilities, and property boundaries.

21. "Storm Sewer System" Facilities for the conveyance of Storm Water Runoff, a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and swales.

22. "Storm Water Management Facilities" Properties such as wet or dry detention basins, unlined detention permeable pavement, and bioretention including associated appurtenances to make the system functional.

23. "Storm Water Management Plan" A site Plan, certified by a Civil Engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased Storm Water Runoff from the Site.

24. "Storm Water Runoff" The flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.

25. "SUDAS" Current version of Statewide Urban Design and Specifications.

167.03 AREAS REQUIRING STORM WATER MANAGEMENT PLAN. A Storm Water Management Plan shall be required for:

1. All new residential subdivisions and resubdivisions larger than 2 acres in size, and all new commercial and industrial subdivisions and developments of any size. Commercial and industrial development taking place on existing platted lots larger than 0.5 acre in size are also required to comply with this Chapter by submitting a Storm Water Management Plan. Phased developments under 2 acres for subdivisions as a part of a larger planned Development must comply as well. Requiring

2. Other Developments may be required to submit a Storm Water Management Plan at the discretion of the City if topography of the site and planned improvements may have an adverse effect on downstream runoff. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or Storm Water Management Facility.

3. At the discretion of the City Council, a fee may be charged the developer in lieu of providing Storm Water Management Facilities. This

may be utilized when the City is constructing a larger Regional Storm Water Management Facility to handle multiple existing or proposed Developments.

167.04 STORM WATER MANAGEMENT PLAN REQUIREMENTS. Storm Water Management Plan shall include, but not be limited to, the following information:

1. Peak discharges for Pre-Developed and Developed conditions based upon the design storms.

2. Individual parameters used for determining discharges shall be listed.

3. Hydraulic capacity of storm sewer inlets, pipes, open channels, or other means of conveying water.

4. Storm water management facility design with Capacity listed.

5. Control Structure/outlet design.

6. Review of existing or proposed downstream conveyance capacities.

7. The SCS TR-55 computerized runoff volume program or other technically proven method as allowed by SUDAS shall be utilized for runoff calculations.

167.05 STORM WATER MANAGEMENT PLAN DESIGN REQUIREMENTS. The design requirements of the Storm Water Management Plan shall include:

1. Developments requiring storm water management shall be required to detain the difference between the 5 year Pre-Developed storm and the 50 year Developed storm.

2. The maximum release rate for storms up to an expected Return Frequency of 50 years shall be the 5 year Pre-Developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the Detention Basin.

3. Regional Storm Water Management Facilities are encouraged.

4. For residential Developments, storm water detention, other than individual bioretention, is not allowed within any front or side yard setbacks required by zoning code, or within 25 feet of the estimated rear building line.

5. Dry-bottomed Detention Basins shall be oversized by 10% to help offset anticipated sedimentation.

6. Maximum side slopes of Detention Basins shall not exceed 3.5:1

7. Provisions shall be made to keep the bottom of the Detention Basin dry unless a permanent pond or lake is being utilized for detention.

8. Follow Iowa Standard Management Manual design guidelines for Storm water Management practices as applicable.

167.06 SUBMISSION AND APPROVAL OF PLAN. A Site Plan shall be a required attachment to a proposed Storm Water Management Plan, all of which is to be submitted to the City for review. The Storm Water Management Plan, including proposed storm water detention facilities, shall be reviewed and approved by the City prior to the issuance of any building permit for the proposed Development. The City may inspect the site at any time to determine compliance with this Chapter. Upon determination that a site is not in compliance with this Chapter, the City may issue an order to comply. The order shall describe the problem, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

167.07 OWNERSHIP BY CITY. Regional Storm Water Management Facilities which arc of sufficient size may be deeded to and be maintained by the City. The conditions for City ownership will be reviewed on a case by case basis. The City is under no obligation to accept ownership of the facility. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public storm water Detention Basins will be located. Ingress-egress casements for maintenance of public facilities shall be provided prior to final approval.

167.08 PRIVATE OWNERSHIP. For sites on which privately owned Storm Water Detention Facilities are located, the property owner will be responsible for the following:

1. All future grading, repairs, and maintenance.

2. Maintenance of the minimum storm water detention Capacity, as originally designed.

3. Maintenance of the Detention Basin Control Structure(s) and discharge pipe(s) to insure the maximum theoretical design release rate is not increased.

4. The property owner shall not place fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless approved in writing by the City.

167.09 FURTHER REQUIREMENTS. Compliance with this Chapter does not relieve the developer of other responsibilities relating to storm water

discharge. This includes, but is not limited to, NPDES Storm Water Discharge Permits regulated by the Iowa Department of Natural Resources and other State of Iowa and Federal requirements.

(Ch. 167 – Ord. 390 – Aug. 16 Supp.)

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